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FEDERAL ELECTION COMMISSION

RECORD

March 1986 999 E Street NW Washington DC 20463 Volume 12, Number 3

LEGISLATION

FEC SEEKS SUPPLEMENTAL FUNDS FOR DISCLOSURE

On February 20, 1986, the Federal Election Commission requested a $282,000 supplemental appropriation from Congress for Fiscal Year (FY) 1986 "to help restore vital disclosure services" which the agency has had to curtail since February 1, 1986, for lack of adequate funding. In a letter sent to Congress and the Office of Management and Budget requesting the funds, the agency stated that "if the supplement is not forthcoming, the public will be deprived of the level of disclosure enjoyed during the last election, and will have lost the historical data on the 1986 election cycle."

A total of $858,000 was cut from the FEC's 1986 Fiscal Year budget: $323,000, on the erroneous assumption of a government-wide pay cut, and $535,000, as the result of the Deficit Reduction Act of 1985. Although the President asked Congress to restore the $323,000, Congress did not. Nevertheless, the Senate Appropriations Committee advised the FEC to request an FY 1986 supplement if the agency's work could not be "effectively completed without additional funding."

NEW FEC HEADQUARTERS/PHONE NUMBERS

During February, the FEC completed its move to its new headquarters at 999 E Street, N.W., Washington, D.C. 20463. New phone numbers are now in effect for the following offices:

- o Public Records Office - 376-3140
- o Press Office - 376-3155
- o Information Services - 376-3120
- o Main Switchboard (for all other offices) - 376-5140

Anyone calling the Commission from outside of the Washington, D.C. area should continue to use the toll-free number, 800/424-9530.

ADVISORY OPINIONS

AO 1985-37: Affiliation of Local Chambers of Commerce with State Chamber; Local Chambers as Collecting Agents

The Michigan State Chamber of Commerce (the Michigan Chamber) does not qualify as a federation of trade associations. Accordingly, the Michigan Chamber may not solicit contributions to its separate segregated fund, Chamber Fed AC, from the members of the Grand Rapids Chamber of Commerce (the Grand Rapids Chamber) and other local chambers of commerce in Michigan (the local chambers). Furthermore, since the local

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chambers are merely organizational members of the Michigan Chamber and do not qualify as the state chamber's "local units," the local chambers may not serve as "collecting agents" for Chamber Fed PAC. 11 CFR 102.6(b).

FEC Regulations define a "federation of trade associations" as "an organization representing trade associations involved in the same or allied line of commerce." 11 CFR 114.8(g)(1). The Commission has interpreted this to mean that organizations within a federation must share an organizational relationship. See AOs 1979-62 and 1983-28. The Michigan Chamber and the Grand Rapids Chamber do not meet this requirement. Their respective by-laws do not establish or reflect such an organizational relationship. Moreover, the memberships of the Michigan Chamber and the Grand Rapids Chamber and the other local chambers include, respectively, several categories of members, such as individuals, firms and other organizations (including other local chambers). Finally, the Michigan Chamber and the local chambers represent many lines of commerce rather than a similar or related line.

The Commission noted that the Michigan Chamber must also comply with FEC Regulations governing:

- Solicitations of its own solicitable members (11 CFR 114.7(g) and 114.8(e)(4)); and
- Transactions involving both Fed Chamber PAC and the Michigan Chamber's PAC for nonfederal elections (11 CFR 102.5(a)).

(Date made public: January 16, 1986; Length: 5 pages)

AO 1985-38: Committee Established by House Candidate to Support State and Local Candidates

Congressman Vic Fazio, who has two authorized committees to support his 1986 reelection effort, plans to establish and register in California a third committee, the state committee. The state committee will engage exclusively in supporting state and local candidates and in making charitable contributions, as authorized by state law. Assuming the state committee limits its political activity to supporting state and local candidates, the committee will not be considered a "political committee," subject to the Federal Election Campaign Act (the Act). Accordingly, the committee may engage in the following activities:

- The state committee may accept donations impermissible under the Act, i.e., corporate and labor donations and donations that exceed the Act's monetary limits.
- The state committee may use Congressman Fazio's name in its title y contrast, the Act prohibits any political committee (i.e., a committee which supports federal candidates) other than a candidate's authorized committee(s) from using the candidate's name in its title. The Commission noted, however, that references the state committee makes to Congressman Fazio in conjunction with the committee's fundraising efforts, general public advertising or charitable donations may or may not result in a contribution to Congressman Fazio's reelection effort, depending on all the facts and circumstances of a given situation.
- The state committee may accept funds from Congressman Fazio's authorized committees, provided the state committee does not use the funds for federal elections but restricts their use to nonfederal election activity. (See above.)

Since Congressman Fazio's request indicated that the state committee would not be supporting his (or other federal candidates') reelection efforts, the Commission did not address the issues raised by transferring funds from the state committee to Congressman Fazio's authorized committee. See AO 1984-46. Nor did the Commission address issues related to relevant state and tax laws or House rules because they are beyond its jurisdiction. (Date issued: January 17, 1986; Length: 4 pages)

AO 1985-40: Expenditures on Behalf of Former Senator Testing the Waters for 1988 Presidential Candidacy

Former Senator Howard H. Baker, Jr., has established a fund (the testing Fund) to help him determine whether he should become a candidate for the 1988 Republican Presidential nomination. Mr. Baker wishes to avoid taking any action before November 4, 1986, that will trigger his candidacy under the Act or require the testing Fund to register and report as a political committee. The Republican Majority Fund (RMF), a nonconnected political committee "closely identified" with Mr. Baker, plans to support his testing-the-waters efforts through a series of activities. Any expenditures RMF makes on behalf of Mr. Baker's testing-the waters efforts will constitute in-kind gifts* to the testing Fund. Together, they will be subject to the contribution limit of $5,000 per year.** The limit will apply at the time RMF makes the expenditures.

Should Mr. Baker subsequently become a Presidential candidate, his principal campaign

"In-kind gifts" refer to RMF expenditures on behalf of Mr. Baker's testing-the-waters activity. "In-kind contributions" refer to RMF expenditures that would trigger Mr. Baker's candidate status under the Act.

***Prior to July 1, 1985, testing-the-waters activities could be financed with funds impermissible under the Act. Under the FEC's revised regulations, however, funds used for such activities must comply with the Act's limits and prohibitions on contributions. See 50 Fed. Reg. at 9993-4, 25698-9 (1985).*

committee will have to report RMF's expenditures for his testing-the-waters activities as both "contributions" and "expenditures" on the first report the committee files with the Commission.* Moreover, RMF's pre-candidacy expenditures, plus any expenditures RMF makes for Mr. Baker after he becomes a candidate, will: 1) be subject to an aggregate $5,000 limit and 2) count against the statutory spending limits for publicly funded Presidential candidates, should Mr. Baker accept public funding. Finally, if after Mr. Baker becomes a candidate, RMF makes expenditures for testing-the-waters activities that he engaged in before becoming a candidate, RMF will have to report the expenditures as in-kind contributions to Mr. Baker's Presidential campaign.

The Commission determined that a number of proposed activities would qualify as testing-the-waters efforts rather than as campaign expenditures or contributions.

The Fund's Expenditures for Solicitations

Although direct mail solicitations are customarily considered campaign activity, the testing Fund's direct mail solicitations to former contributors to RMF and to Mr. Baker's prior campaigns will qualify as testing-the-waters activity because: 1) the solicitations will clearly state that Mr. Baker has not yet determined whether he will seek the 1988 Republican Presidential nomination; 2) the funds raised will be used for Mr. Baker's testing-the-waters activities; and 3) the purpose of the solicitations is not to amass campaign funds.

Mailing lists provided for the solicitations will not constitute in-kind gifts to the testing Fund, provided the Fund reimburses the list owners.

RMF Expenditures as In-Kind Gifts to the Fund

RMF detailed five kinds of expenditures it plans to finance on behalf of Mr. Baker's efforts to test the waters for a potential 1988 Presidential candidacy. Provided Mr. Baker does not engage in activities that indicate he has decided to become a Presidential candidate or conduct campaign activity for the Presidential nomination, the RMF expenditures listed below will constitute in-kind gifts to the testing Fund:

Travel costs for public appearances. Travel costs paid by RMF for public appearances by Mr. Baker and his representatives at regional Republican Party meetings and conferences that feature potential 1988 Presidential candidates will be in-kind gifts to the testing Fund. RMF's expenditures for hosting hospitality suites in conjunction with these meetings and conferences will also be in-kind gifts to the testing Fund.

Travel costs for private political meetings. Travel costs paid by RMF for private meetings held by Mr. Baker with Republican Party leaders in states with early primaries and conventions will be gifts to the testing Fund. (Mr. Baker plans to seek their views on his potential candidacy.) If Mr. Baker's private meetings are held in conjunction with appearances on behalf of federal candidates running in 1986, RMF must allocate Mr. Baker's travel costs between his private meetings (i.e., as in-kind gifts to the testing Fund) and his appearances on behalf of 1986 candidates (i.e., as in-kind contributions to the candidates). See 11 CFR 106.1(a).

Similarly travel costs paid by RMF for private meetings held by Mr. Baker in conjunction with party-building appearances on behalf of local and state party committees must be allocated between the two kinds of activities. Since RMF's expenditures for this travel will become reportable expenditures should Mr. Baker become a candidate, RMF should use the formula for allocating travel costs between a candidate's campaign-related and noncampaign-related activities on a trip. (The particular allocation formula used will depend on whether, after becoming a candidate, Mr. Baker receives primary matching funds. See 11 CFR 106.3 and 9034.7.)

Steering committees. Money spent by RMF to establish steering committees in several states to encourage Mr. Baker to seek the nomination will be gifts to the testing Fund. The Commission cautioned, however, that to avoid triggering the Fund's status as a "political committee" or Mr. Baker's status as a "candidate" under the Act, the steering committees may not engage in activities relevant to a Baker candidacy or the establishment of a Baker campaign organization.

Administrative expenses. Administrative expenses (e.g., salaries, fees and overhead costs) incurred by RMF for meetings and travel related to Mr. Baker's testing-the-waters activities will represent in-kind gifts to the testing Fund. See 11 CFR 106.1(c) and 100.7(a)(3).

continued

**To facilitate reporting, FEC Regulations require that records be kept of funds received and spent for testing-the-waters activities.*

The Record is published by the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. Commissioners are: Joan D. Aikens, Chairman; John Warren McGarry, Vice Chairman; Lee Ann Elliott; Danny Lee McDonald; Thomas E. Harris; Thomas J. Josefiak; Jo-Anne L. Coe, Secretary of the Senate, Ex Officio; Benjamin J. Guthrie, Clerk of the House of Representatives, Ex Officio. For more information, call 202/376-3120 or toll-free 800/424-9530.

Newsletter solicitations. RMF distributes a newsletter to its contributors and party officials and activists. Expenditures RMF allocates to newsletter communications that refer briefly to Mr. Baker's potential candidacy, but which do not indicate that he has decided to become a candidate, will constitute in-kind gifts to the testing Fund. A lengthier solicitation message in the newsletter will also constitute in-kind support for his testing-the-waters effort rather than influencing his nomination because the message will not indicate that he has decided to become a candidate. Specifically, the solicitation message may: 1) state that contributions to RMF will "promote" Mr. Baker's potential candidacy; 2) enclose newsletter clippings favorable to Mr. Baker; and 3) indicate that contributors to RMF will be viewed as early supporters of Mr. Baker's possible candidacy.

The Commission noted, however, that, since RMF had not submitted samples of proposed solicitations, the agency's conclusion should not be interpreted as a determination regarding any specific situation.

RMF Expenditures That Are Not In-Kind Gifts to the Testing Fund

Travel costs RMF defrays for trips that Mr. Baker makes to qualified party-building events before he becomes a candidate, and at which he does not engage in testing-the-waters activities, will constitute neither an in-kind gift to the testing Fund nor an in-kind contribution to Mr. Baker's candidacy. However, if Mr. Baker becomes a candidate, RMF expenditures for his trips to party-building activities that occur after he is a candidate will constitute in-kind contributions to his campaign. 2 U.S.C. §431(16); 11 CFR 100.15. Commissioner Thomas E. Harris filed a dissenting opinion. (Date issued: January 24, 1986; Length: 23 pages, including dissent)

AO 1985-42: Campaign Funds Used to Pay Candidate's Apartment Rent

The principal campaign committee of Representative Gene Taylor, a candidate for reelection to the House in 1986, may pay a portion of the rent of an apartment in Washington, D.C. which will be used, in part, for the Representative's personal use and, in part, by his campaign staff during visits to the city. If the staff's visits are campaign-related, the reelection committee must report the portion of the rent allocable to staff use as operating expenditures. 2 U.S.C. §434(b); 11 CFR 104.3.

Alternatively, if the staff's Washington visits are not campaign-related, the rent paid by the reelection committee would be considered a personal use of excess campaign funds by Representative Taylor and should be reported as miscellaneous disbursements rather than as operating expenditures. 2 U.S.C. §434(b)(6)(A); 11 CFR 104.3 (b)(4)(vi)). Because Representative Taylor was a Member of Congress on January 8, 1980, the law permits him to use excess campaign funds for personal use. 2 U.S.C. §439a; 11 CFR 113.2. (Date made public: January 24, 1986; Length: 2 pages)

ADVISORY OPINION REQUESTS

The following chart lists recent requests for advisory opinions (AORs). The full text of each AOR is available to the public in the Commission's Office of Public Records.

AOR	Subject
1986-4	Corporation's plan to broaden involvement by senior management in contributions program. (Date made public: Janurary 24, 1986; Length: 1 page, plus 5-page supplement)
1986-5	Campaign funds transferred from candidate's 1984 House campaign to his 1986 campaign for local office. (Date made public: January 24, 1986; Length: 1 page)
1986-6	Multicandidate committee established by the Vice President for party building and support of local, state and federal candidates. (Date made public: January 24, 1986; Length: 7 pages)
1986-7	Cooperative PAC's shareholder solicitation program. (Date made public: January 29, 1986; Length: 1 page, plus 19-page supplement)

PUBLIC APPEARANCES

3/4 Emory University Law School
Atlanta, Georgia
Kenneth Gross, Associate General Counsel

3/12 Edison Electric Institute
Washington, D.C.
Chairman Joan D. Aikens

3/24 Ohio State Conference on State and Federal Campaign Finance Laws
Columbus, Ohio

INFORMATION

FEC EXPANDS DIRECT ACCESS PROGRAM

Despite recent cuts in the Commission's disclosure program, beginning in January 1986, the Commission added several new categories to its on-line computer information system, the Direct Access Program. Inaugurated in September 1985, the FEC's Direct Access Program is specifically designed for individuals with personal computers. FEC campaign finance information pertaining to the 1985-86 election cycle is available to users of the service in two formats: computer indexes and computer raw data. (For more information on the program's capabilities, call 376-3155 or toll free, 800/424-9530.)

The Direct Access Program will now provide the following cumulative information on each candidate's or committee's activity:

- o Total receipts and expenditures;
- o Total cash-on-hand; and
- o Total debts owed.

Moreover, users may obtain this summary information by type of candidate (e.g., an incumbent or challenger) or by type of political committee (e.g., a corporate or labor PAC). The new information supplements information previously available on records relating to: each individual candidate; each registered political committee, including its total receipts and disbursements; and political committee support.

In addition, users will now be able to search the data base for information on a political committee by using only a portion of the committee's title. This tool is particularly useful for users who do not know the exact title of an organization's political action committee (PAC).

How to Obtain Program Access

Individuals may purchase access to the program for: $50 per hour or for 1,000 per month for unlimited use. An initial, one-hour minimum purchase is required. Users may obtain access to the program from 10:00 a.m. to 10:00 p.m., Eastern Standard Time, Monday through Friday. Parties interested in the service should contact the agency's Freedom of Information Office by calling the phone numbers listed above.

800 LINE

DESIGNATING A PRINCIPAL CAMPAIGN COMMITTEE

Under what circumstances must an individual who plans to run for federal office in 1986 or 1988 designate a principal campaign committee?

Individuals running for federal office in 1986 or 1988 must designate a principal campaign committee within 15 days of becoming a candidate. (Individuals become candidates once they raise or spend more than $5,000 to influence their future election or when someone they authorize to work on their behalf raises or spends $5,000 to influence their election. See 11 CFR 101.1(a).)

Candidates designate a principal campaign committee by filing a Statement of Candidacy on FEC Form 2 or a letter containing the same information (i.e., the name and address of the principal campaign committee, as well as the candidate's name and address, party affiliation and office sought; and the district and state in which the office is sought). House candidates must file this information with the Clerk of the House; Senate candidates, with the Secretary of the Senate; and Presidential candidates, with the FEC.

Does this requirement also apply to an individual who ran in a previous federal election?

Yes. The requirement applies to individuals who were candidates in a previous election, and whose authorized committees are still registered with the Commission. They must file a new FEC Form 2, either designating a new principal campaign committee or redesignating their current committee. (While redesignated committees retain their original identification number, newly designated committees receive a new identification number.)

If the candidate redesignates an existing committee, the committee must amend its current Statement of Organization (FEC Form 1) to reflect any new information (e.g., a change in the committee's name or address).

To obtain FEC forms or more information, contact Information Services by writing or calling 202/376-3120 or toll free 800/424-9530.

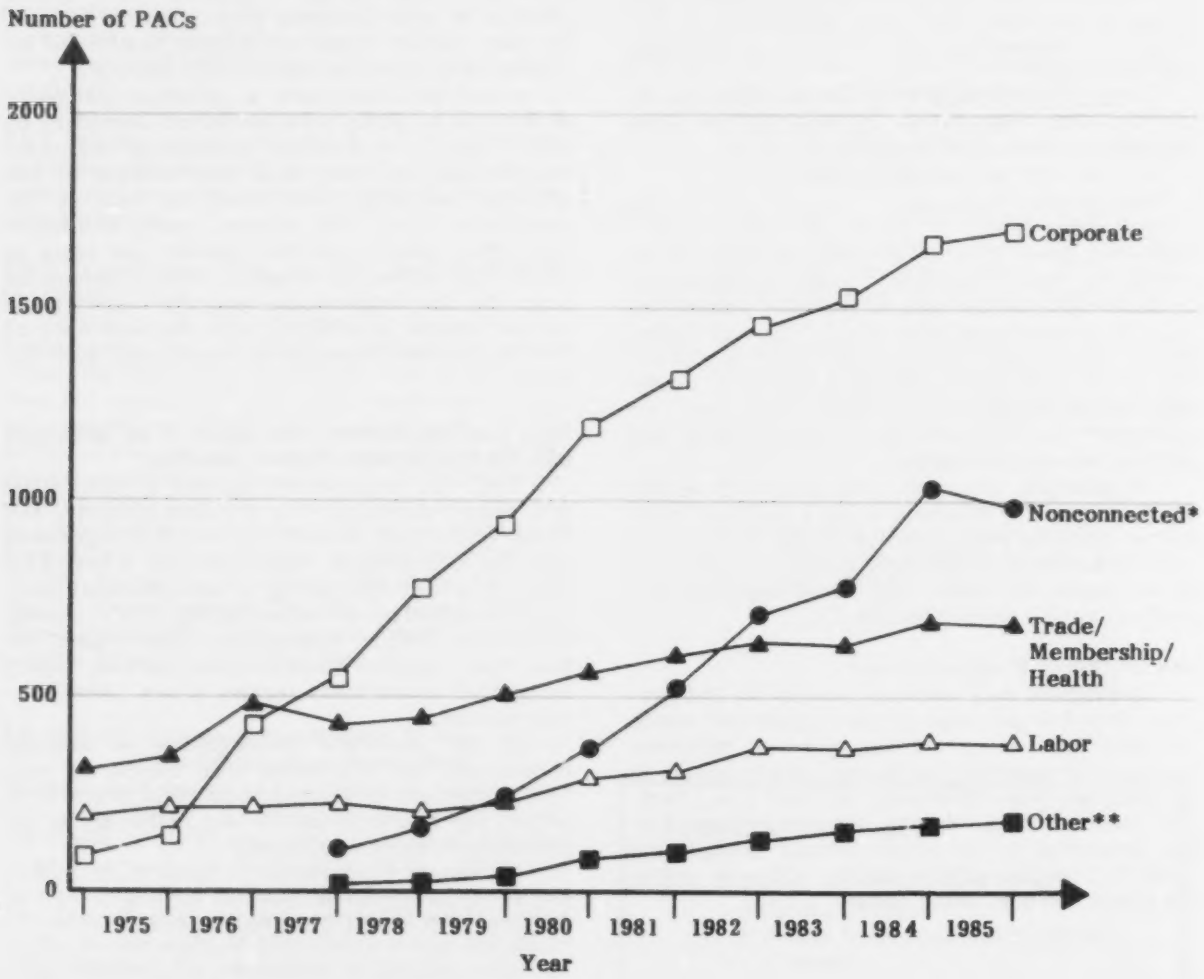
STATISTICS

DECREASE IN PAC GROWTH

During 1985, for the first time, the total number of PACs registered with the FEC reflected an absolute decline in the number of active PACs. By the end of 1985 there were 3,992 PACs registered with the FEC, a drop from the 4,009 PACs registered at the end of 1984. (The term PAC or political action committee refers to any political committee not authorized by a federal candidate or established by a political party.)

The graph below plots the total number of PACs in existence from 1975 through 1985. The graph does not reflect the financial activity of PACs.

CHART I
PAC GROWTH



**For the years 1974 through 1976, the FEC did not identify subcategories of PACs other than corporate and labor PACs. Therefore, numbers are not available for Trade/Membership/Health PACs and Nonconnected PACs.*

***Includes PACs formed by corporations without capital stock and cooperatives. Numbers are not available for these categories of PACs from 1974 through 1976.*

CAMPAIGN FINANCE ACTIVITY OF SENATE INCUMBENTS SEEKING REELECTION IN 1986

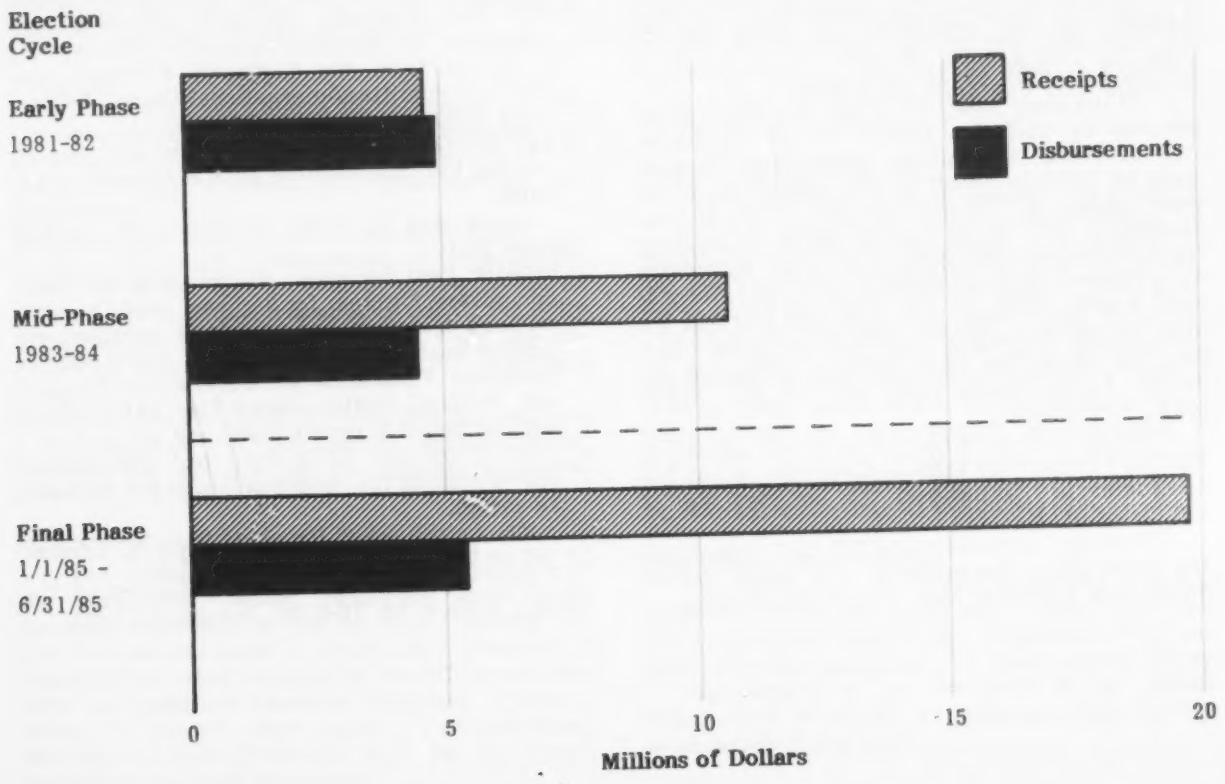
Senate incumbents up for reelection in 1986 have been most active in spending campaign funds during the early phase of their six-year reelection cycle (1981-82) and the final phase (1985-86). The substantial activity during the first phase of the cycle may be attributed, in part, to the candidates' efforts to retire debts of former campaigns rather than to their 1986 reelection efforts.

By contrast, the candidates' campaign receipts have increased in each two-year phase of their reelection cycle.

The chart below depicts the campaign finance activity of the candidates over the six-year reelection cycle (i.e., from January 1981 through June 1985).

More detailed information on Senate incumbents up for reelection in 1986 may be obtained from the FEC's January 31, 1986, press release, available from the FEC's Public Records Office.

CHART II
FINANCIAL ACTIVITY OF SENATE INCUMBENTS SEEKING REELECTION IN 1986



COURT CASES

FEC v. CALIFORNIANS FOR DEMOCRATIC REPRESENTATION

On January 9, 1986, the U.S. District Court for the Central District of California ruled that Californians for Democratic Representation (CDR), a nonprofit organization registered with the California Fair Political Practices Commission, had violated various provisions of the Federal Election Campaign Act in the course of conducting a slate mail program during 1982.

Background

CDR's slate mail program consisted of political ads distributed through direct mail to the general public. In addition to endorsing ballot issues and state and local candidates, CDR's slate mail program endorsed federal candidates active in California's 1982 primary and general elections. Candidates could purchase advertising space from CDR at fair market value. (A candidate's ad might include, for example, his/her photograph and a write-up.) CDR also listed candidates who did not purchase advertising space, at no charge to them.

Court's Ruling

The court ruled that those federal candidates who had paid for advertising space in CDR's slate mailings had not contributed to CDR; nor did their advertising space constitute in-kind contributions from CDR to the candidates.

On the other hand, the court found that costs incurred by CDR for listing federal candidates free of charge in mailings constituted expenditures by CDR on behalf of the candidates, which were subject to the election law. (Nine federal candidates were listed free of charge in mailings for the primary elections, and three candidates were listed in general election mailings.) Accordingly, the court found that CDR had violated the election law by failing to register and report as a political committee when these expenditures exceeded $1,000 during 1982. See 2 U.S.C. §§431 (4)(A), 433 and 434.

Finally, the court ruled that CDR's ads failed to state who paid for them and whether or not the candidates had authorized the mailings. See 2 U.S.C. §441d(a).

The court imposed a $15,000 civil penalty on the defendants. Subsequently the court denied defendants' motion to have the penalty reduced.

NEW LITIGATION

FEC v. Citizens Party

The FEC asks the district court to:

- Declare that the Citizens Party and its treasurer, Judi Gerhardt, violated the election law by failing to file the following reports for the 1984 election year: two quarterly reports, a post-general election report and a year-end report (2 U.S.C. §§434(a)(4)(A)(i)-(iii));
- Assess a civil penalty against defendants amounting to the greater of $5,000 or an amount equal to 100 percent of the amount involved in the violation; and
- Permanently enjoin defendants from further violations of the election law.

U.S. District Court for the Northern District of New York, Civil Action No. 85-CV-1576, December 9, 1985.

James Antosh v. FEC (Sixth Suit)

Pursuant to 2 U.S.C. §437g(a)(8)(A), James Antosh petitioned the district court to declare that the FEC acted contrary to law in dismissing two administrative complaints that Mr. Antosh filed with the FEC on March 1, 1984, and on May 11, 1984, respectively.

In the March 1, 1984, complaint, Mr. Antosh alleged that:

- Senator Edward M. Kennedy, his principal campaign committee, the Committee to Re-elect Senator Kennedy, and the committee's treasurer had knowingly accepted excessive contributions for Senator Kennedy's 1982 primary campaign from the Engineers Political Education Committee/International Union of Operating Engineers (EPEC/IUOE); and
- EPEC/IUOE had violated the election law by making the contributions to the Kennedy campaign.

In his May 11, 1984, complaint, Mr. Antosh alleged that:

- Senator Paul Sarbanes, his principal campaign committee, Citizens for Sarbanes, and the committee's treasurer had knowingly accepted excessive contributions from EPEC/IUOE and the American Federation of Government Employees' Political Action Committee (AFGE-PAC) and had failed to report them; and
- EPEC/IUOE and AFGE-PAC had violated the law by making the contributions to the Sarbanes campaign.

Mr. Antosh asked the court to order the FEC to act on the complaints within 30 days.

U.S. District Court for the District of Columbia, Docket No. 86-0179, January 21, 1986.

COMPLIANCE

SUMMARY OF MURs

The Act gives the FEC exclusive jurisdiction for its civil enforcement. Potential violations are assigned case numbers by the Office of General Counsel and become "Matters Under Review" (MURs). All MUR investigations are kept confidential by the Commission, as required by the Act. (For a summary of compliance procedures, see 2 U.S.C. §§437g and 437(d)(a) and 11 CFR Part 111.)

This article does not summarize every stage in the compliance process. Rather, the summaries provide only enough background to make clear the Commission's final determination. Note that the Commission's actions are not necessarily based on, or in agreement with, the General Counsel's analysis. The full text of these MURs is available for review and purchase in the Commission's Public Records Office.

MUR 1761: Failure to Amend Statement of Organization; Treasurer's Responsibilities

This MUR, resolved through conciliation, pertained to a committee which filed its report late, failed to amend its Statement of Organization and permitted someone other than the treasurer or assistant treasurer to sign its reports.

Complaint

The MUR was internally generated by the Commission in the normal course of carrying out its administrative responsibilities. A review of the reports submitted during 1984 indicated that the committee:

- o Filed a late report (2 U.S.C. §434(a)(4)(A));
- o Failed to amend its Statement of Organization to reflect the appointment of a new treasurer and a new assistant treasurer (2 U.S.C. §433(c));
- o Conducted financial transactions when the office of treasurer was vacant (2 U.S.C. §432(a)); and
- o Had its reports signed by a person who was not designated on the Statement of Organization as either the treasurer or the assistant treasurer (2 U.S.C. §434(a)(1)).

General Counsel's Report

The Commission's investigation revealed that the committee, having undergone some staff changes, neglected to file its 1984 quarterly report on time and failed to amend its Statement of Organization when changes in the offices of treasurer and assistant treasurer occurred. Furthermore, the reports were signed by an individual who had not been designated as either the treasurer or the assistant treasurer.

However, the investigation made clear that the committee did, in fact, have an assistant treasurer, acting as treasurer, at the time it received contributions and made expenditures.

Commission Determination

The Commission found no probable cause to believe the committee carried out financial transactions without having a treasurer or an assistant treasurer. As to the reporting violations, the Commission agreed with the recommendations contained in the General Counsel's report and entered into a conciliation agreement with the respondents. In the agreement, the Committee agreed to file an amended Statement of Organization reflecting the current treasurer and pay a civil penalty of $200. The agreement was concluded in September 1985.

MUR 2037: Bank Contributions Made in Connection with State and Local Elections

Resolved through conciliation, this MUR concerned prohibited contributions made by a bank in connection with state and local elections.

Complaint

The MUR was initiated by the Federal Election Commission as a result of a referral from the Supervisory Agent for the Federal Home Loan Bank Board on May 9, 1985. The General Counsel recommended that the Commission find reason to believe that a federal savings bank (the Bank) had violated 2 U.S.C. §441b(a) by making contributions in connection with state and local elections during 1983 and 1984.

General Counsel's Report

The Federal Election Campaign Act prohibits a national bank from making contributions or expenditures in connection with any election to any political office (national, state or local). The Bank, prior to September 30, 1983, was a state chartered savings bank eligible to make contributions to state and local elections. However, on September 30, the Bank converted to a federal savings bank, which made it ineligible to make contributions for any election. Nevertheless, it continued to make contributions in connection with state and local elections—amounting to $1,465—after the date of the conversion.

Commission Determination

In September 1985 (prior to finding probable cause to believe the Bank had violated the law), the Commission entered into a conciliation agreement with the respondent. The Bank agreed to pay a civil penalty to the Treasurer of the United States of $730 and not to undertake any activity in violation of the Act.

PUBLICATIONS

FREE PUBLICATIONS

The FEC offers the following free publications. To order, return the completed form below.

Federal Election Campaign Laws

Complete compilation of Federal election campaign laws prepared by FEC.

FEC Regulations (11 CFR)

FEC regulations; subject indexes prepared by FEC.

FEC Record

Monthly newsletter covering reporting, advisory opinions, litigation, legislation, statistics, regulations, compliance, Federal Register notices, FEC procedures and staff, and publications.

Campaign Guides

Clear explanation and illustration of election law requirements. Separate Guide for:

Congressional Candidates and Committees
Party Committees
Corporations and Labor Organizations
Nonconnected Political Committees

House and Senate Bookkeeping Manual

Recommended method of bookkeeping and reporting for Federal candidates and their committees.

FEC and Federal Election Law

Brief overview of major provisions of the Federal Election Campaign Act and the Commission's role in administering it.

Using FEC Campaign Finance Information

Brochure explaining how to gather information on financial activity of political committees and candidates by using reports and FEC's computer indexes.

Brochures

Advisory Opinions
Candidate Registration
Contributions
Corporate/Labor Communications
Corporate/Labor Facilities
Independent Expenditures
Local Party Activity
Political Ads and Solicitations
Public Funding of President Elections
State Computer Access to FEC Data
State Elections & Federal Campaign Law
Trade Associations
Using FEC Campaign Finance Information
Volunteer Activity

Annual Report

Report to President and Congress, summarizing agency's activities, advisory opinions and litigation; and presenting Commission's legislative recommendations.

The First 10 Years

Special report providing statistical graphs on campaign financing, history of election laws, description of FEC functions and list of past Commissioners and statutory officers.

Order Form

NAME	
STREET	
CITY, STATE, ZIP CODE	
CONNECTED ORGANIZATION	PHONE (Optional)

Please indicate quantity in box to left of each item.

General

	Federal Election Campaign Laws		Bookkeeping Manual for Candidates
	FEC Regulations		Annual Report
	FEC Record (subscription)		10-Year Report

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	Congressional Candidates		Corporations and Labor Organizations
	Party Committees		Nonconnected Committees

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	Advisory Opinions		Political Ads and Solicitations
	Candidate Registration		Public Funding of Presidential Elections
	Contributions		State Computer Access to FEC Data
	Corporate/Labor Communications		State Elections & Federal Campaign Law
	Corporate/Labor Facilities		Trade Associations
	FEC and Federal Election Law		Using FEC Campaign Finance Information
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Mail to: Federal Election Commission
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Phone: Toll Free 800/424-9530

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FEDERAL ELECTION COMMISSION
1325 K Street, N.W.
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FEDERAL ELECTION COMMISSION

RECORD

April 1986 999 E Street NW Washington DC 20463 Volume 12, Number 4

INFORMATION

PARTY COORDINATED EXPENDITURE LIMITS -- 1986

Party committees may make limited, special expenditures on behalf of their candidates in the 1986 general elections. 2 U.S.C. §441a(d); 11 CFR 110.7. These special expenditures count neither as contributions to the candidate nor as expenditures by the candidate or the candidate's authorized committees. The party committee may coordinate the expenditures with the candidate's campaign, but the party committee--not the candidate--must report them, using Schedule F of FEC Form 3X.

In 1986, national party committees have separate spending limits for Senate and House candidates in the general election. State party committees are subject to separate spending limits for Senate and House general election candidates in their respective states. Within a state, all expenditures made on behalf of one candidate by the state party committee or any subordinate party committee (e.g., county, district, local) are subject to **one** spending limit.

The formulas for the party spending limits in 1986 are based on state voting age population estimates (as of July 1, 1985) from the Department of Commerce, and the increase in the consumer price index (CPI) certified by the Secretary of Labor. They are calculated as follows:

How to Calculate Senate Limit

The Senate formula is the state voting age population (VAP) x $.02, increased according to the change in the consumer price index; or $20,000 (increased by the change in the CPI), whichever is greater. (See chart below.)

How to Calculate House Limit

The House limit depends on the number of districts in the state. For House candidates in states with more than one district (and candidates for Delegate from the District of Columbia, Guam and the Virgin Islands or for Resident Commissioner from Puerto Rico), the limit is $10,000 (increased by the change in the CPI) or $21,810 during 1986. For House candidates in states entitled to only one representative, the limit is the same as that for Senate candidates. (See above.)

Chart on Senate Limits

The Commission has compiled the following chart for 1986 limits on party spending for Senate candidates in the general election. The Senate limit also applies to candidates for the House, in those states which have a single Representative. In the chart, an asterisk (*) indicates those states having only one Representative. VAP figures in the chart are in thousands.

APR 10 1986 U.S. GOVT. PUBS. DEPOSITORY

State	VAP (Thousands)	1986 Party Spending Limits
Alabama	2,904	$126,672.4[illegible]
Alaska*	351	43,620.0[illegible]
Arizona	2,312	100,849.4[illegible]
Arkansas	1,713	74,721.8[illegible]
California	19,525	851,680.5[illegible]
Colorado	2,367	103,248.5[illegible]
Connecticut	2,418	105,473.1[illegible]
Delaware*	465	43,620.0[illegible]
Florida	8,830	385,164.6[illegible]
Georgia	4,318	188,351.1[illegible]

continued

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State	VAP (Thousands)	1984 Party Spending Limits
Hawaii	764	$ 43,620.00
Idaho	681	43,620.00
Illinois	8,436	367,978.32
Indiana	3,993	174,174.66
Iowa	2,111	92,081.82
Kansas	1,785	77,861.70
Kentucky	2,703	117,904.86
Louisiana	3,126	136,356.12
Maine	860	43,620.00
Maryland	3,295	143,727.90
Massachusetts	4,458	194,457.96
Michigan	6,605	288,110.10
Minnesota	3,054	133,215.48
Mississippi	1,824	79,562.88
Missouri	3,702	161,481.24
Montana	592	43,620.00
Nebraska	1,158	50,511.96
Nevada	716	43,620.00
New Hampshire	745	43,620.00
New Jersey	5,700	248,634.00
New Mexico	1,002	43,707.24
New York	13,414	585,118.68
North Carolina	4,666	203,530.92
North Dakota*	488	43,620.00
Ohio	7,871	343,333.02
Oklahoma	2,377	103,684.74
Oregon	1,976	86,193.12
Pennsylvania	8,976	391,533.12
Rhode Island	743	43,620.00
South Carolina	2,425	105,778.50
South Dakota*	502	43,620.00
Tennessee	3,531	154,022.22
Texas	11,572	504,770.64
Utah	1,031	44,972.22
Vermont*	395	43,620.00
Virginia	4,262	185,908.44
Washington	3,229	140,848.98
West Virginia	1,420	61,940.40
Wisconsin	3,491	152,277.42
Wyoming*	349	43,620.00

Delegate/Resident Commissioner Candidates

America Samoa	19	$ 21,810.00
District of Columbia	494	21,810.00
Guam	72	21,810.00
Puerto Rico	2,034	21,810.00
Virgin Islands	62	21,810.00

EASY ACCESS TO FEC

The FEC encourages the public to visit the agency's new headquarters and take advantage of the Commission's information services. Located at 999 E Street, N.W., the agency is within two blocks of both metrorail and metrobus lines. (See the map on the next page.)

Depending on your needs and interests, one or more FEC offices can offer you assistance and information, as discussed below. The FEC is open from 9 to 5, daily. These offices may also be contacted by calling the FEC's toll-free number, 800/424-9530, or by calling the local numbers listed below.

If you represent a committee and want to file your report in person, come to the **Mail Room**, located on the street floor.

If you work for a committee or a candidate (e.g., as a treasurer, a volunteer or an attorney) and want assistance in complying with the law or wish to pick up free written materials explaining the law's requirements, stop by the **Information Services Division** on the 2nd floor. A public affairs specialist will meet with you and answer your questions. The specialists may be contacted by phone at 376-3120.

If you work with a committee and have specific questions about filling out your report, you can speak with the reports analyst who reviews your committee's report. Come to the **Reports Analysis Division** on the 7th floor or call 376-2480.

If you are interested in gathering data on specific candidates or committees, you will find the information in the **Public Records Office.** Located on the street floor, the Public Records Office provides information on the campaign finance activities of political committees and candidates involved in federal elections. The office is a library facility with ample work space and a knowledgeable staff to help locate documents. FEC documents available for review and copying include:

- o Campaign finance reports (1972-present);
- o Statistical summaries of campaign finance reports;
- o Computer indexes on campaign finance information;
- o Advisory opinion requests and advisory opinions;
- o Completed compliance cases;
- o Audit reports;
- o Press releases; and
- o Other Commission documents (e.g., agendas of FEC meetings).

The office may also be contacted locally by calling 376-3140.

If you are a media representative—print or broadcast—you will want to meet with our press officers in the **Press Office,** also located on the street floor. They will answer your questions and help provide data on specific candidates and com-

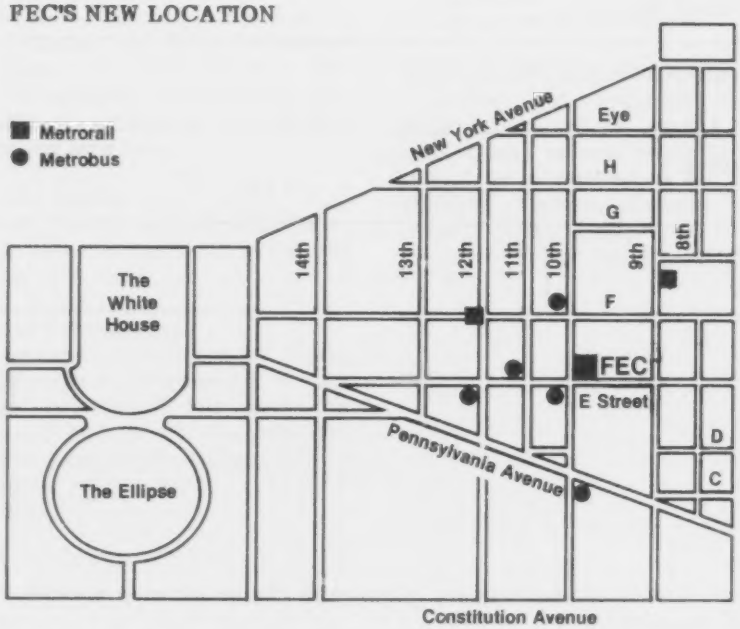
mittees. The Press Office may be contacted by phone at 376-3155.

If you are interested in seeking information through the Freedom of Information Act, address your request to the **Press Office.**

If you want to do research related to the election law or campaign finance reform, you may wish to use the **Library** located on the 8th floor. It houses a collection which includes basic legal research tools and materials dealing with political campaign finance, corporate and labor political activity and campaign finance reform. Researchers may call the Library at 376-5312.

If your interest lies in election administration, the **National Clearinghouse on Election Administration** can answer your questions and provide current research findings. The office is located on the 7th floor. The Clearinghouse may also be contacted by calling 376-5670.

FEC'S NEW LOCATION



REPORTS

APRIL REPORTING SCHEDULE

The following chart and paragraphs explain the reporting schedule for the various categories of filers.

	Report			
Type of Filer	**Quarterly April 15**	**Pre-Primary**	**Monthly April 20**	**Semiannual July 31**
Congressional Candidate Committees: 1986	X	X		
Congressional Candidate Committees: Other Years				X
Presidential Candidate Committees: Monthly Filers[1/]			X	
Presidential Candidate Committees: Quarterly Filers	X			
PAC/Party Committees: Monthly Filers[2/]			X	
PAC/Party Committees: Quarterly Filers	X	X[3/]		
Connected Organizations: Communications[4/]	X			

[1/]All Presidential committees are required to file on either a monthly or a quarterly basis during 1986. 11 CFR 104.5(b)(2).

[2/]All corporate and labor PACs, nonconnected committees and party committees are required to file on either a monthly or a quarterly basis in 1986.

[3/]Required only if the committee makes contributions or expenditures on behalf of candidates in the primary which have not been previously disclosed.

[4/]Report required if aggregate costs for partisan, internal communications for all 1986 primaries have exceeded $2,000.

Quarterly Report

Due by April 15, the report should cover all activity from January 1 (or from the closing date of the last report filed in 1986) through March 31.

Pre-Primary Report

The report is due 12 days before the primary election and must be complete as of the 20th day before the election. If sent by registered or certified mail, the report must be postmarked no later than the 15th day before the election.

Monthly Report

The monthly report must be filed by April 20. It should cover all activity from March 1 (or from the closing date of the last report filed in 1986) through March 31.

Semiannual Report

The semiannual report is not filed until July 31. It covers all activity from January 1 through June 30.

Change in Filing Frequency

PACs and party committees which plan to change their reporting schedule (e.g., from quarterly to monthly) must notify the Commission of their intention. The committee may notify the Commission by submitting a letter with the next report due under its current reporting schedule. A committee may not change its filing frequency more than once a year. 11 CFR 104.5(c). The FEC requests that Presidential committees also inform the Commission in writing if they decide to change their reporting schedule.

WHERE REPORTS ARE FILED

Committees must file all reports and statements simultaneously with the appropriate federal and state officials. 11 CFR 108.5.

Filing with the Federal Government

- The principal campaign committees of House candidates and committees supporting or opposing only House candidates file with the Clerk of the House, Office of Records and Registration, 1036 Longworth House Office Building, Washington, D.C. 20515. 11 CFR 104.4(c)(3) and 105.1.
- The principal campaign committees of Senate candidates and committees supporting or opposing only Senate candidates file with the Secretary of the Senate, Senate Public Records, Hart Senate Office Building, Room 232, N.E., Washington, D.C. 20510. 11 CFR 104.4(c)(2) and 105.2.
- All other committees, including the principal campaign committees of Presidential candidates, file with the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. 11 CFR 105.3 and 105.4.

Filing with State Governments

- The principal campaign committees of Congressional candidates must file a copy of every report and statement with the Secretary of State or the appropriate elections official of the state in which the candidate seeks federal office. 11 CFR 108.3.
- PACs and party commmittees making contributions or expenditures in connection with House and Senate races file in the state in which the candidate seeks election. The law requires a copy only of that portion of the report applicable to the candidate(s) being supported. Committees supporting Presidential candidates must file in the state(s) in which the Presidential committee and donor committee have their respective headquarters.

HOW TO OBTAIN MORE INFORMATION

During 1985, reporting forms and additional information will be sent to registered committees. Questions and requests for additional forms should be addressed to the Information Services Division, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463; or call 202/376-3120 or toll free 800/424-9530.

The Record is published by the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. Commissioners are: Joan D. Aikens, Chairman; John Warren McGarry, Vice Chairman; Lee Ann Elliott; Danny Lee McDonald; Thomas E. Harris; Thomas J. Josefiak; Jo-Anne L. Coe, Secretary of the Senate, Ex Officio; Benjamin J. Guthrie, Clerk of the House of Representatives, Ex Officio. For more information, call 202/376-3120 or toll-free 800/424-9530.

OPINIONS

ALTERNATE DISPOSITION OF ADVISORY OPINION REQUEST

AOR 1986-3: Committee's Reporting of Stock Contribution Sold on the Open Market

The requester withdrew the request in a letter of February 14, 1986.

ADVISORY OPINIONS: SUMMARIES

An Advisory Opinion (AO) issued by the Commission provides guidance with regard to the specific situation described in the AOR. Any qualified person who has requested an AO and acts in accordance with the opinion will not be subject to any sanctions under the Act. Other persons may rely on the opinion if they are involved in a specific activity which is indistinguishable in all material aspects from the activity discussed in the AO. Those seeking guidance for their own activity, however, should consult the full text of an AO and not rely only on the summary given here.

AO 1986-1: Corporate Vendor's Offer to Provide Free Tickets to Committee

The Committee to Re-Elect Congressman Ron Dellums (the Committee) had reserved the Warner Theater in Washington, D.C. (the Theater) for a concert fundraiser that the Committee planned to hold in March 1986. Subsequently, however, the Theater decided it would be financially beneficial to book a musical production for a block of time that included the date of the Committee's fundraiser. To mitigate any harm the cancelation might cause the Committee, the Theater may offer the Committee 100 free tickets to a performance of the musical production. This settlement offer would not result in a prohibited corporate contribution from the Theater to the Committee, provided:

- o The offer was commercially reasonable; and
- o The offer was made in the ordinary course of business. See AO 1983-6.

To determine whether the Theater's proposed settlement offer was commercially reasonable, the Commission would consider: 1) whether the Committee attempted to find, or was offered, another comparable facility for the fundraiser; and 2) whether the Theater's offer was reasonably related to total funds the Committee might have lost as a result of canceling the fundraiser. Similarly, in determining whether the proposed offer was transacted in the ordinary course of business, the Commission would consider: 1) whether the Theater had an established policy of making similar offers to other clients (political and nonpolitical) and 2) whether the Theater regularly made such offers to settle disputes with customers.

Reporting Requirements

Assuming the Theater's settlement offer meets the standards of being commercially reasonable and made in the ordinary course of business, the Committee should report the receipt of the tickets as a memo entry on Schedule A of FEC Form 3. The memo entry should briefly describe the reason the Committee received the tickets. (Date issued: February 21, 1986; Length: 3 pages)

AO 1986-2: Candidate's Door-to-Door Sales Campaign

To help finance Gary Robbins' campaign for an Iowa House Seat, Mr. Robbins and his wife may sell dry beans and popcorn "door-to-door." Since the purpose of the sales is to solicit funds for Mr. Robbins' campaign and to advocate his candidacy, proceeds of the sales are contributions and costs incurred for the sales program are expenditures. Mr. Robbins' campaign committee is responsible for the reporting of these transactions.

As campaign contributions, the sales proceeds are subject to the election law's monetary limits and prohibitions. 2 U.S.C. §§441a, b, c, e and g; 11 CFR 100.7(a)(2). Depending on the amount of an individual's purchase, the law's requirements for itemized recordkeeping and reporting may apply. 2 U.S.C. §§432(b)-(c); 11 CFR Parts 102 and 104.

If Mr. Robbins pays the expenses (e.g., for supplies) from personal funds, they must be reported as both in-kind contributions to, and expenditures by, his campaign. 11 CFR 104.13(a)(2). Alternatively, the personal funds may be considered (and reported as) candidate loans.

The Commission distinguished its decision in this opinion from its decision in several previous opinions concerning candidate activities. In those opinions, the activities did not result in the making of campaign contributions or expenditures because they were entirely separate from the candidates' campaigns. See AOs 1979-72 and 1985-32. (Date issued: February 21, 1986; Length: 3 pages)

AO 1986-4: Corporation's Program to Encourage Employee Contributions

If Armstrong World Industries, Inc. (Armstrong) inaugurates a program designed to encourage contributions from its administrative and executive personnel to federal candidates and political committees, Armstrong must establish and register

with the FEC a separate segregated fund (the fund). As required by FEC Regulations, the fund would have to file periodic reports of its receipts and disbursements for federal elections, including any earmarked contributions from its employees which the fund might forward to federal candidates and political committees.

If the fund exercises any control over an earmarked contribution, the fund must:

- o Report the transaction as a contribution from both the employee and the fund; and
- o Comply with the solicitation requirements for such contributions.

Moreover, the earmarked contribution would be subject to the monetary limits for both the employee and the fund. 2 U.S.C. §§441a(a)(1) and (2) and §441b(b)(3)(A); 11 CFR 104.3(b), 110.6(d) and 114.5(a)(1)-(2).

Proposed Contribution Program

As originally proposed, Armstrong's plan represents a corporate endeavor to support candidates and solicit and direct contributions to candidates. For example, Armstrong's Washington office was to distribute information concerning Congressional races and recommend contribution recipients. Armstrong would then actively persuade its executives to participate in the program, would seek contribution pledges from them and would monitor their participation in the program.

In conducting the program, Armstrong planned to act sometimes as a conduit for employees' earmarked contributions. In response to a candidate's fundraiser, the program adminstrator would collect employees' contribution checks (made payable to the candidate's campaign committee) and transmit the checks in one bundle to the candidate.

Those employees Armstrong recruited as volunteers to assist in the program would provide support services but would not direct the program.

Separate Segregated Fund Required

Armstrong must establish a separate segregated fund to avoid violating the election law's ban on corporate expenditures and contributions in connection with federal elections. See 2 U.S.C. §441b. Armstrong's contributions program would not qualify as an exempt nonpartisan activity designed to encourage employees' participation in the political process (11 CFR 114.4); nor would it be considered an exempt volunteer activity by employees who make incidental use of corporate facilities for their own political activities (11 CFR 114.9).

The Commission expressed no opinion on the application of the proposed program to contributions for state and local candidates and committees. (Date issued: February 27, 1986; Length: 7 pages)

AO 1985-5: Excess Campaign Funds Transferred from Candidate's Federal Committee to His Local Committee

The Barnes for Congress Committee (the federal committee), the principal campaign committee for Michael P. Barnes' 1984 Congressional campaign, may transfer its remaining funds to the Barnes for St. Joseph County Prosecutor Committee (the local committee), Mr. Barnes' campaign committee for local office, provided:

- o The transfer is permissible under Indiana law; and
- o The transferred funds are used for Mr. Barnes' election to local office and are not converted to his personal use.

Once it transfers its remaining excess funds to the local committee, the federal committee may terminate by filing a termination report on FEC Form 3 (or in a letter containing the same information). The report must disclose the disposition of the committee's remaining funds. 11 CFR 102.3(a).

Section 439a of the Federal Election Campaign Act (the Act) permits federal candidates to use their excess campaign funds for such lawful purposes as the proposed transfer. However, the provision expressly prohibits candidates who were not Members of Congress on January 8, 1980, such as Mr. Barnes, from converting excess campaign funds to personal use.

The Commission noted that provisions of the Act governing the proposed transfer would not preempt relevant provisions of Indiana law (e.g., Indiana laws regulating the amount of funds which the federal committee may transfer to the local committee). (Date issued: February 27, 1986; Length: 2 pages)

AO 1986-7: Cooperative PAC's Shareholder Solicitation Plan

The American Crystal Sugar Company (the Cooperative), an agricultural cooperative incorporated under Minnesota law, may implement a plan to solicit contributions to its separate segregated fund (the fund) from noncorporate shareholders who own preferred stock in the cooperative. 2 U.S.C. §441b(b)(4)(C); 11 CFR 1147(a). Shareholders who decide to participate in the program will have their contributions deducted from the Cooperative's payments for their sugarbeet crops. The total amount deducted may not exceed the monetary limits for an individual's contributions to political committees. See 2 U.S.C. §441a(a)(1)(C) and 441a(a)(3).

Cooperative's Solicitation Plan

Under the Cooperative's proposed solicitation plan, a shareholder with preferred stock may sign a form authorizing the fund to deduct a portion of his/her proceeds on the sugarbeet crop. The au-

continued

thorization form suggests that stockholders contribute $1 per share of preferred stock. (Acreage under cultivation is proportionate to the number of preferred shares an individual shareholder owns.) The form includes a guideline stating that the shareholder is free to contribute more or less than that amount. The form also states that the Cooperative will neither favor nor disadvantage the shareholder on the basis of the amount of his/her contribution or a decision not to contribute.

Once the shareholder signs the authorization form, a contribution will be automatically deducted once a year and forwarded to the fund. The shareholder may withdraw from the deduction plan by notifying the cooperative in writing by March 1 of any year.

The Cooperative's proposed deduction plan is permissible because:

- o The guideline contained in the combined solicitation and authorization form meets the solicitation requirements of the Act and FEC Regulations (2 U.S.C. §441b(b)(3); 11 CFR 114.5(a)); and
- o The contributions will come from permissible funds (i.e., the shareholders' earnings on their crops).

(Date issued: March 14, 1986; Length: 3 pages)

COURT CASES

FEC v. WOLFSON

On February 6, 1986, the U.S. District Court for the Middle District of Florida, Tampa Division, issued an order granting the FEC's motion for summary judgment in a suit which the FEC had brought against Allen Wolfson on October 7, 1985. (FEC v. Allen Z. Wolfson; Civil Action No. 85-1617-CIV-T-13)

As requested by the FEC, the court found that Mr. Wolfson had violated the election law by making contributions to authorized candidate committees which exceeded the law's monetary limits (2 U.S.C. §441a(a)(1)(A)) and which were made in the names of other persons (2 U.S.C. 441f).

The court permanently enjoined Mr. Wolfson from further violations of the election law and imposed a $52,000 civil penalty on him.

FEC v. AMERICAN INTERNATIONAL DEMOGRAPHIC SERVICES, INC.

On February 10, 1986, the U.S. District Court for the Eastern District of Virginia issued an order permanently enjoining American International Demographic Services, Inc. (AIDS) and its Vice President, Ernest Halter, from using FEC campaign finance information for commercial purposes. The court imposed a $3,500 civil penalty on the defendants for illegal use of the information.

Background

The Federal Election Campaign Act states that "...any information copied from reports or statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee." 2 U.S.C. §438(a)(4). While the Commission has allowed FEC information on political committees to be used for contribution solicitations, the agency has forbidden the use of individual contributor information for commercial purposes (e.g., product advertisements) or for solicitations.

The defendants' violation of this provision involved their illegal use of two FEC computer tapes containing individual contributor information that had been disclosed on FEC reports filed by political committees. The tapes had been purchased by Mr. Halter's wife on behalf of the Voter Information Council PAC (VICPAC), a nonconnected political committee she had established in April 1982. (Mrs. Halter claimed she had purchased the tapes to purge outdated information on lists owned by VICPAC and by her.) As part of an agreement AIDS had entered into with Working Names, Inc., a list management company, Mr. Halter subsequently transferred the two FEC tapes to the company. Working Names used the tapes, along with two other FEC tapes, to create four mailing lists which the company marketed to list brokers and mailers.

The defendants' illegal use of FEC contributor information was discovered by the National Republican Congressional Committee (NRCC) when a direct mail piece was addressed to "Kane Orsell," a fictitious contributor NRCC had listed on a report filed with the FEC. (FEC Regulations allow a political committee to "salt" its FEC report with up to ten fictitious names and addresses for purposes of detecting such illegal use of its contributor names. 11 CFR 104.3(e).) The mailing was sent by the American Legislative Exchange Council, which had purchased its list of addressees from a broker that Working Names had supplied with lists. (The Council had purchased the list for a one-time use.)

After tracing original ownership of the mailing list back to AIDS, NRCC held a meeting with Mr. Halter in which he agreed, among other

things, to take the names of NRCC contributors off the list broker market and to provide NRCC with a list of the direct mail companies that had rented the names. Mr. Halter failed to do any of these things. Consequently, on September 28, 1982, the NRCC filed a complaint against both Mr. Halter and AIDS with the FEC. After investigating the matter, the FEC found probable cause to believe that the defendants had violated the election law. Subsequently, when defendants failed to enter into a conciliation agreement with the agency, the FEC brought suit against them in the district court.

FEC's Suit

In its suit, the FEC asked the court to declare that Mr. Halter and AIDS had violated Section 438(a)(4) by using reports filed with the FEC for commercial purposes. Specifically, the FEC asked the court to find that defendants used FEC information to: a) prepare contributor listings they rented to various organizations through a broker and b) increase the commercial value of contributor listings they already had.

Court's Ruling

After examining the evidence presented for its consideration at trial, the court found that "the defendants willfully violated the Act by having Working Names manage the [two FEC computer] tapes for the purpose of renting them out to brokers and mailers."

NEW LITIGATION

FEC v. Rhoads for Congress Committee

The FEC asks the district court to make the following declarations:

- o Mary Rhoads, mother of 1982 Illinois House candidate Mark Rhoads, made excessive contributions to Mr. Rhoads' principal campaign committee by personally endorsing and providing security for two loans, portions of which were accepted by the committee (i.e., $17,000).
- o The Mid-America Conservative Political Action Committee (MAPAC) made an excessive contribution of $2,000 to the committee. (At the time the contribution was made, MAPAC's per election limit was $1,000, rather than $5,000, because the PAC had not yet qualified for multicandidate committee status.)
- o The Committee and its treasurer, William Naegel, in turn, violated the law by accepting the excessive contributions.

The FEC asks the court to order the Committee and its treasurer to refund the excessive portion of the contributions (i.e., $16,000) to Mrs. Rhoads and to assess an appropriate civil penalty against each of the defendants.

U.S. District Court for the Northern District of Illinois, Civil Action No. 85-10676, December 27, 1985.

LEGISLATION

FEC SUGGESTS 24 RECOMMENDATIONS FOR CHANGES IN ELECTION LAWS

On March 11, 1986, the Commission transmitted to Congress and the President 24 recommendations for legislative changes in federal election laws. The recommendations were accompanied by an explanation that at least eight of the proposals offer total budgetary savings in the agency's operations of between $400,000 and $500,000. The Commission is statutorily mandated to submit recommendations each year "for any legislative or other action the Commission considers appropriate...." 2 U.S.C. §438(a)(9).

Among the 24 proposals submitted this year, four were aimed at enhancing public disclosure and reducing some of the bookkeeping requirements for campaigns and political committees. These four proposals are summarized below, along with the FEC's projected savings in implementing two of them. The proposals contain recommendations that Congress:

- o Require House and Senate campaigns to report their financial activity for an entire campaign cycle. The current practice of reporting activity on a calendar-year basis makes it difficult to determine total amounts raised and spent on campaigns spanning more than one year. (estimated savings: $140,000)
- o Require monthly filers to file their reports closer to the closing date of a reporting period in order to make information more timely.
- o Clarify the statutory provision requiring political committees to report their operating expenses. Under the curent law, it is unclear whether a committee must report only initial payments to contractors, vendors and other payees or whether the committee must also report payments that the initial payees, in turn, make to subcontractors, agents and others.
- o Apply the contribution limits to a campaign cycle, rather than to individual elections (e.g., primary, general, special or runoff). This amendment would reduce burdensome record-keeping requirements for committees, while maintaining current contribution limits. (estimated savings: $140,000)

Included among the Commission's remaining 20 recommendations were suggestions that Congress:

- o Reaffirm its intent that draft committees are "political committees" subject to the reporting requirements, prohibitions and limits of the Act;
- o Make the FEC the sole point of entry for all documents filed by federal candidates and political committees;

continued

- Eliminate state-by-state limits for publicly funded Presidential primary candidates (estimated savings: $140,000);
- Define the extent to which foreign nationals may participate, if at all, in any American election; and
- Establish a reimbursement account for the FEC that will enable the agency to offset expenses incurred from reproducing documents and tapes purchased by requesters (estimated savings: $100,000).

The full text of the recommendations will be published in the Commission's 1985 Annual Report. Copies of the recommendations are also available from the FEC's Public Records Office, 999 E Street, N.W., Washington, D.C. 20463.

PUBLIC APPEARANCES

4/4 Trinity College
Washington, D.C.
Patricia Klein, Public Affairs Specialist

4/4 American Bar Association
Baltimore, Maryland
Charles N. Steele, General Counsel

4/16 Yale Law School
New Haven, Connecticut
Charles N. Steele, General Counsel

4/22 U.S. Department of Commerce
1986 Class of Commerce, Science and Technology Fellows
Washington, D.C.
Bobby Werfel, Chief Information Services

4/29 Elkhart County League of Women Voters
Elkhart, Indiana
Penelope Bonsall, Director, National Clearinghouse on Election Administration

4/30 Federal Bar Association, Delaware Chapter
Wilmington, Delaware
Bradley Litchfield, Assistant General Counsel

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This cumulative index lists advisory opinions, court cases and 800 Line articles published in the Record during 1986. The first number in the citation refers to the "number" (month) of the Record issue; the second number, following the colon, indicates the page number in that issue.

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Mini Conference For Candidates

Program: The Mini Conference will be held on May 29-30 and repeated on June 6. It consists of two workshops designed for candidate committees. For a full description of the program, turn to page 12.

Registration and Fees: For each conference, there is a fee of $10 to cover refreshments. (If you attend only one workshop, the fee is $5.) All materials are provided, at no cost, by the Federal Election Commission. To register for one or both workshops, complete the form below and return it by May 2, with your check, to the Federal Election Commission. Make checks payable to FEC Conference.

Location: The workshop will be held in the Conference Room on the 9th floor of the Federal Election Commission, 999 E Street, N.W., Washington, D.C.

Transportation: Limited parking is available in nearby public parking lots. The Commission may be reached easily by public transportation. Consult the map on page 3.

More Information: For more information, contact Ian Stirton at the Federal Election Commission, 800/424-9530 or 202/376-3120.

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Mini Conference Series

The Federal Election Commission announces a new Mini Conference series. The first conference, to be held in May and repeated in June, is designed for Congressional candidate committees. The program offers two workshops, an introductory session and an advanced course. Because space is limited, pre-registration is required. Individuals may sign up for one or both workshops. In addition, attendees may make appointments to meet with FEC staff.

To register, turn to page 11.

First Session — May 29 and 30, 1986

Thursday	Candidates: Introductory Workshop		
May 29	8:30	9:00	Registration and Coffee
	9:00	10:30	Sources of Candidate Support
	10:30	10:45	Break
	10:45	12:00	Candidate Registration and Reporting
Friday	Candidates: Advanced Workshop		
May 30	8:30	9:00	Registration and Coffee
	9:00	10:30	Joint Fundraising
	10:30	10:45	Break
	10:45	12:00	Problems to Avoid

Second Session — June 6, 1986

Friday	Candidates: Introductory Workshop		
June 6	8:30	9:00	Registration and Coffee
(Morning)	9:00	10:30	Sources of Candidate Support
	10:30	10:45	Break
	10:45	12:00	Candidate Registration and Reporting
Friday	Candidates: Advanced Workshop		
June 6	2:00	3:15	Joint Fundraising
(Afternoon)	3:15	3:30	Break
	3:30	4:45	Problems to Avoid

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FEDERAL ELECTION COMMISSION

RECORD

May 1986 999 E Street NW Washington DC 20463 Volume 12, Number 5

LEGISLATION

FEC TESTIFIES ON FY 1987 BUDGET

During Congressional hearings held between February 20 and April 23, 1986, FEC Vice Chairman John Warren McGarry requested a $12.8 million budget for the Commission for fiscal year (FY) 1987. Mr. McGarry, who also serves as chairman of the agency's finance committee, stated that the FEC's budget request "will give [the agency] limited flexibility to build on progress to date."

Accompanied by FEC Chairman Joan D. Aikens and Commissioner Thomas J. Josefiak, vice chairman of the finance committee, Mr. McGarry testified before four Congressional committees: the Subcommittee on Elections of the Committee on House Administration; the House Committee on Appropriations' Subcommittee on Treasury, Postal Service and General Government; the Subcommittee on Treasury, Postal Service and General Government of the U.S. Senate Committee on Appropriations; and the Senate Committee on Rules and Administration.

Vice Chairman McGarry testified that the volume of campaign finance activity monitored by the FEC during the 1983-84 Congressional election cycle had increased by one-third over the activity of each of the two previous election cycles (i.e., the 1979-80 Presidential cycle and the 1981-82 Congressional cycle). Campaign finance activity in 1986 is expected to approximate 1984 activity. Mr. McGarry predicted that in 1988, when the major parties' Presidential nominations may be contested by 20 or more publicly funded candidates, "total spending will surely be astronomical."

Mr. McGarry said that increases in campaign finance activity have implications for the Commission's workload. FEC staff must: field more information calls and press inquiries; process and disclose more pages of campaign finance reports; certify more public funds to Presidential candidates; and handle more complex legal issues through the advisory opinion and enforcement processes. "While improving our timeliness in the face of a growing workload, we have also been able to enhance both our disclosure and outreach programs - up to this point that is," Mr. McGarry stated.

Mr. McGarry explained that, during FY 1986, the Commission was forced to react promptly to unanticipated budget cuts resulting from the Balanced Budget and Emergency Deficit Reduction Act of 1985. This cut followed an earlier Congressional reduction based on a proposed government-wide salary cut, which never went into effect.* "While the combined dollar amount is not significant by overall government standards, these reductions [totaling $858,000] proved to be extremely disruptive to a small, personnel-intensive agency such as ours," he said. For example, the agency was forced to cut computerized disclosure services which are not mandated by law but which the public has come to expect from the FEC. Budget cuts also required a further reduction in programs of the National Clearinghouse on Election Administration, which had already been cut more than 90 percent since the late 1970's.

Congress cut the agency's budget request by $323,000 on the assumption that a 5 percent cut would be imposed on all federal employees. That assumption later proved false, but the Commission's funds were not restored.

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ADVISORY OPINIONS

ADVISORY OPINION REQUESTS

The following chart lists recent requests for advisory opinions. The full text of each AOR is available to the public in the Commission's Office of Public Records.

AOR	Subject
1986-8	Contributions to candidate's 1982 Senate campaign refunded by his 1986 Senate campaign. (Date made public: March 20, 1986; Length: 1 page, plus 3-page supplement)
1986-9	Campaign funds used for legal expenses pertaining to compliance with House Rules. (Date made public: March 25, 1986; Length: 1 page)
1986-10	Affiliated status of two nonconnected PACs using same consulting firm. (Date made public: April 2, 1986; Length: 2 pages)
1986-11	Act's preemption of state law governing Congressional campaign's logo. (Date made public: April 2, 1986; Length: 1 page, plus 1-page supplement)
1986-12	Funds transferred from former Representative's 1984 House campaign to retire debts of her 1986 Senate exploratory committee. (Date made public: April 3, 1986; Length: 1 page, plus 5-page supplement)
1986-13	Eligibility of trade association's corporate members for financing PAC fundraisers. (Date made public: April 4, 1986; Length: 4 pages plus 39-page supplement)

ADVISORY OPINIONS: SUMMARIES

An Advisory Opinion (AO) issued by the Commission provides guidance with regard to the specific situation described in the AOR. Any qualified person who has requested an AO and acts in accordance with the opinion will not be subject to any sanctions under the Act. Other persons may rely on the opinion if they are involved in a specific activity which is indistinguishable in all material aspects from the activity discussed in the AO. Those seeking guidance for their own activity, however, should consult the full text of an AO and not rely only on the summary given here.

AO 1986-6: Multicandidate Committee Established by the Vice President for Party Building and Support of Federal/Nonfederal Candidates

Vice President George Bush is the founder and honorary chairman of the Fund for America's Future, Inc. (the Fund), a nonconnected political committee which was established in 1985 to support the Republican Party and Republican candidates at the local, state and federal levels. Since Vice President Bush will not consider a potential Presidential candidacy until after the 1986 elections, he has neither established a testing-the-waters fund nor authorized the Fund to make expenditures or engage in activities on behalf of his potential candidacy.

During 1986, as the election season progresses, Vice President Bush will be involved in a number of party-building and direct candidate support activities on behalf of the Fund. If the Vice President engages in the Fund-sponsored activities described below, the Fund's expenditures for these activities will not be allocable to his potential candidacy for federal office in 1988, provided the activities are restricted in the ways described by the Fund in its advisory opinion request (i.e., the activities do not promote Vice President Bush's potential candidacy).

The Commission noted that its conclusion applies only to expenditures the Fund makes for activities the Vice President participates in before he qualifies as a candidate under the election law.

1. Candidate and Party Appearances

Travel expenses the Fund absorbs for the Vice President's appearances at party functions, candidate rallies, fundraisers and hospitality suite gatherings will not be allocable to his potential

The Record is published by the Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. Commissioners are: Joan D. Aikens, Chairman; John Warren McGarry, Vice Chairman; Lee Ann Elliott; Danny Lee McDonald; Thomas E. Harris; Thomas J. Josefiak; Jo-Anne L. Coe, Secretary of the Senate, Ex Officio; Benjamin J. Guthrie, Clerk of the House of Representatives, Ex Officio. For more information, call 202/523-4068 or toll-free 800/424-9530.

candidacy in 1988, provided these public appearances do not include:

- o Any public references to the Vice President's potential candidacy (e.g., possible intent to campaign in 1988) or to the candidacies of his potential opponents;
- o Any solicitations on behalf of his candidacy;
- o Any meetings with individuals and with the press regarding his candidacy or the formation of a campaign organization; or
- o Any campaign paraphernalia distributed in support of his candidacy.

Any reference to the Vice President's potential candidacy must be incidental, i.e., incidental contacts and incidental remarks, such as responses to questions. 11 CFR 106.1(a) and (b).

2. Publications and Solicitations

Commission Regulations provide that a political committee's expenditures for newsletters and fundraising solicitations need not be attributed to individual candidates, unless these expenditures are: 1) made on behalf of a clearly identified candidate and 2) can be directly attributed to that candidate. 11 CFR 106.1(c)(1). The Fund's expenditures for publications that describe the Fund's purposes and solicit contributions to the Fund need not be allocated to the Vice President's potential candidacy. The materials will not refer to his potential candidacy. Nor will the materials suggest that contributors will be viewed as early supporters of his candidacy. Rather, the publications will merely note Vice President Bush's association with the Fund and his desire for individuals to contribute to the Fund as a means of supporting Republican candidates and the Republican party.

3. Steering Committees

The Fund has established steering committees to involve party officials, leaders and officeholders in the Fund's activities and to solicit their advice on candidate support. The Fund need not allocate expenditures for the steering committees to Vice President Bush's potential candidacy in 1988, provided:

- o The steering committees do not promote Mr. Bush's potential candidacy by forming a campaign organization on his behalf or by influencing his nomination (e.g., by participating in the delegate selection process on his behalf); and
- o The steering committees will not make support for Mr. Bush's potential candidacy a requirement for the committees' aid to Republican candidates and organizations.

4. Volunteer Program

To assist Republican candidates and party-building activities (local, state and federal) during 1986, the Fund has been recruiting volunteers and conducting volunteer programs outside the Washington, D.C. area. Expenditures the Fund makes for these volunteer training programs will not be allocable to Vice President Bush's potential candidacy. 11 CFR 106.1(c)(2). The activity will not be conducted to:

- o Establish a campaign organization for Vice President Bush; or
- o Participate in the Presidential nomination process—such as delegate selection—on his behalf.

However, if the Fund conducts volunteer activities that aid other clearly identified federal candidates, some of its expenditures may be allocable to those candidates.

5. Precinct Delegate Recruitment and Assistance

The Fund plans to recruit and offer financial assistance to individuals who seek election as Republican precinct delegates in Michigan's August 1986 precinct delegate election. In addition, the Fund will disseminate information with regard to this election. Expenses the Fund incurs for these specific activities will not be considered contributions or expenditures to influence the nomination or election of Vice President Bush, or of any other candidate, for federal office. Nor will the Fund's expenditures: 1) be allocable to any federal candidate or 2) trigger his/her candidacy.

The Act and FEC Regulations govern only those delegate selection activities related to national nominating conventions because contributions and expenditures made in conjunction with such activities are for the purpose of influencing a federal election. Individuals seeking election as precinct delegates are not necessarily or presumptively seeking positions as national or state convention delegates in 1988. Election as a precinct delegate is not a requirement for selection as a delegate to the Party's national nominating convention in 1988. Furthermore, individuals seeking election as precinct delegates will not be identified on the ballot as committed to or supporting any potential Presidential candidate. Nor is such a commitment a requirement for selection as a delegate. Finally, individuals elected as precinct delegates in 1986 will not select national convention delegates. Rather, they will select delegates to a 1988 state party convention which, in turn, will choose the national convention delegates.

The Commission noted that, should the Fund's support for potential precinct delegates exceed those activities described in its advisory opinion request, a different conclusion might be warranted. Vice Chairman John Warren McGarry and Commissioner Thomas E. Harris each filed a dissent. (Date issued: March 14, 1986; Length: 23 pages, including dissents)

CAMPAIGN FINANCE LAW 86: A SUMMARY OF STATE CAMPAIGN FINANCE LAWS

Recently published by the Clearinghouse, this volume contains state contribution and solicitation limitations, expenditure limitations, reporting requirements and other campaign finance information, with citations to the respective state codes and quick reference charts.

To purchase your copy, indicate the title and order number 052-006-000-35-0, and make your check or money order for $19.00 payable to Superintendent of Documents.

Send your order to:
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CLEARINGHOUSE

1986 CLEARINGHOUSE PROJECTS

The FEC's National Clearinghouse on Election Administration serves as a central exchange point for research and information regarding the administration of federal elections. A staff of four provides information services to state and local election agencies by publishing research studies, conducting workshops and responding to telephone and letter inquiries.

Under the guidance of Penelope Bonsall, appointed as director in July 1985, the Clearinghouse currently is focusing on three on-going projects discussed below.

Voting System Standards

The first volume of a study on voting system standards addresses standards for hardware components. The second and third volumes, now under way, will consider, respectively, software standards and management guidelines for punchcard and marksense voting systems. The project is the result of an earlier study conducted by the Clearinghouse in 1983 in response to a specific request from Congress. The 1983 study, entitled Voting System Standards: A Report to the Congress on the Feasibility of Developing Voluntary Standards for Voting Equipment, noted that the proliferation of voting devices had created a compelling need to develop minimum standards for use by the states in assessing a voting system's reliability, security and performance. In recognition of this need, the Clearinghouse began a long-term commitment in September 1984 to develop standards for voting devices.

Voting Accessibility Act

Congress granted the Commission new responsibilities under the Voting Accessibility for the Elderly and Handicapped Act, signed by the President on September 28, 1984. The Act stipulates that registration and polling places for federal elections must be accessible to handicapped and elderly individuals. For the next five election cycles, the states will report to the Commission on the accessibility of polling places, giving reasons for the inaccessibility of any particular site. The Clearinghouse will consolidate this information in annual reports to Congress beginning in 1987, following the 1986 elections.

Computerizing Election Administration

This three-volume project will pool state-of-the-art information on using computers to administer elections. During 1985, the Clearinghouse published Computerizing Election Administration, Volume 1, Current Applications. During 1986, a second volume will be published which presents a comprehensive computerized election system model that can be implemented incrementally. A third volume is currently under way on how to implement computerized election systems that respond to varied situations (e.g., shared versus in-house computer equipment).

COURT CASES

FEC v. ELLIOTT S. MAGGIN FOR CONGRESS COMMITTEE

On April 2, 1986, the U.S. District Court for the District of New Hampshire found in default the Elliott S. Maggin for Congress Committee (the Committee), the principal campaign committee for Mr. Maggin's 1984 House campaign. The Committee had failed to respond to a complaint filed against it by the FEC on January 29, 1986. (FEC v. Elliott S. Maggin for Congress Committee; Civil Action No. C86-40-L)

In its complaint, the FEC had asked the court to:

- Declare that the Committee and the Committee's treasurer, Andi T. Johnson, had violated the election law by failing to file a quarterly report on time (2 U.S.C. §434(a)(2)(A)(iii));
- Assess civil penalties against each defendant amounting to the greater of $5,000 or an amount equal to 100 percent of the amount involved in the violation; and
- Permanently enjoin defendants from further violations of the election law.

NEW LITIGATION

FEC v. Pryor for Congress Committee

The FEC asks the district court to:

- o Declare that the Pryor for Congress Committee, the principal campaign committee for Nancy Pryor's 1984 House campaign, violated the election law by failing to file quarterly and pre-general election reports with the Commission (2 U.S.C. §§434(a)(2)(A)(i) and (iii));
- o Assess a civil penalty against the defendant amounting to the greater of $5,000 or an amount equal to 100 percent of the amount involved in each violation; and
- o Permanently enjoin defendant from further violations of the election law.

U.S. District Court for the Western District of Pennsylvania, CA86-580, March 18, 1986.

COMPLIANCE

FEC PUBLISHES ILLINOIS NONFILERS

On March 14, 1986, as required by the election law, the Commission published the names of two Illinois campaigns for the House of Representatives that had failed to file the pre-primary report required for the March 18, 1986, Congressional primary. Due by March 6 (or March 3 if sent by certified mail), the pre-primary report should have covered activity from January 1 through February 26.

Commission compliance actions against nonfilers are decided on a case-by-case basis. The election law gives the Commission broad authority to initiate enforcement actions resulting from infractions of the law, including civil court enforcement and imposition of civil penalties.

PUBLIC APPEARANCES

5/7	Minnesota State Conference Minnesota Ethical Practices Board and the Office of the Secretary of State of Minnesota St. Paul, Minnesota Chairman Joan D. Aikens Bradley Litchfield, Assistant General Counsel Bobby Werfel, Chief Information Services Paul Kolesa, Public Affairs Specialist
5/7	Hope College Washington, D.C. Vice Chairman John Warren McGarry
5/12-13	Practising Law Institute Washington, D.C. Chairman Joan D. Aikens Charles N. Steele, General Counsel Kenneth Gross, Associate General Counsel
5/29-30	Mini Conference for Candidates
6/6	Federal Election Commission Washington, D.C. Chairman Joan D. Aikens Vice Chairman John Warren McGarry FEC Staff
6/20	FEC Conference for Corporations and Labor Organizations George Mason University Fairfax Virgina Commissioners and Staff
6/27	Investigative Reporters and Editors Portland, Oregon Kent Cooper, Assistant Staff Director for Disclosure

PUBLICATIONS

COMMITTEE TREASURERS BROCHURE NOW AVAILABLE

During March, the Commission published Committee Treasurers, a new brochure to help treasurers of political committees carry out their duties under the federal election law.

Before a political committee conducts financial activities, it must have a treasurer, who is responsible for the committee's compliance with the law. The brochure briefly explains the treasurer's responsibilities and liability under the law and summarizes procedures for designating an assistant treasurer and other committee officers. Finally, the brochure provides a convenient index to provisions of the election law and FEC Regulations governing treasurer's responsibilities.

Copies of Committee Treasurers and other brochures may be obtained free of charge from the FEC's Information Services Division, 202/376-3120 or toll free 800/424-9530.

FREE PUBLICATIONS

The FEC offers the following free publications. To order, return the completed form below.

Federal Election Campaign Laws

Complete compilation of Federal election campaign laws prepared by FEC.

FEC Regulations (11 CFR)

FEC regulations; subject indexes prepared by FEC.

FEC Record

Monthly newsletter covering reporting, advisory opinions, litigation, legislation, statistics, regulations, compliance, Federal Register notices, FEC procedures and staff, and publications.

Campaign Guides

Clear explanation and illustration of election law requirements. Separate Guide for:

Congressional Candidates and Committees
Party Committees
Corporations and Labor Organizations
Nonconnected Political Committees

House and Senate Bookkeeping Manual

Recommended method of bookkeeping and reporting for Federal candidates and their committees.

FEC and Federal Election Law

Brief overview of major provisions of the Federal Election Campaign Act and the Commission's role in administering it.

Using FEC Campaign Finance Information

Brochure explaining how to gather information on financial activity of political committees and candidates by using reports and FEC's computer indexes.

Order Form

NAME	
STREET	
CITY, STATE, ZIP CODE	
CONNECTED ORGANIZATION	PHONE (Optional)

Please indicate quantity in box to left of each item.

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	Federal Election Campaign Laws		Bookkeeping Manual for Candidates
	FEC Regulations		Annual Report
	FEC Record (subscription)		

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	Congressional Candidates		Corporations and Labor Organizations
	Party Committees		Nonconnected Committees

Brochures

	Advisory Opinions		Local Party Activity
	Candidate Registration		Political Ads and Solicitations
	Committee Treasurers		Public Funding of Presidential Elections
	Contributions		State Elections & Federal Campaign Law
	Corporate/Labor Communications		Trade Associations
	Corporate/Labor Facilities		Using FEC Campaign Finance Information
	FEC and Federal Election Law		Volunteer Activity
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REMINDER:
MINI CONFERENCE FOR CANDIDATES

A Mini Conference for candidates will be held in Washington, D.C. on May 29-30 (mornings only) and repeated on June 6 (all day). The series will consist of two workshops, an introductory session covering candidate support and reporting and an advanced course covering common problems to avoid and joint fundraising. There is a $10 registration fee to cover refreshments. Because space is limited, preregistration is required. For more information, see the April issue of the Record or call Ian Stirton at 800/424-9530 or 202/376-3120.

FEC WILL SPONSOR CONFERENCE IN WASHINGTON, D.C. AREA

On Friday, June 20, 1986, the FEC will sponsor a one-day conference at George Mason University, Fairfax, Virginia, which focuses exclusively on the activities of corporations and labor organizations. The conference will include sessions on: the basics about PACs, such as setting up a PAC; PAC reporting requirements; corporate and labor fundraising; and corporate and labor involvement beyond the PAC, such as sponsoring partisan and nonpartisan communications.

The registration deadline for the conference is June 6, 1986. For more information, contact the FEC at 202/376-3120 or toll free at 800/424-9530.

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FEDERAL ELECTION COMMISSION

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June 1986 999 E Street NW Washington DC 20463 Volume 12, Number 6

REPORTS

NEW YORK SPECIAL ELECTION

On June 10, 1986, New York will hold a special election in its sixth Congressional District to fill the seat vacated by the death of Representative Joseph Addabbo.

Political committees authorized by candidates who are participating in the special election must file pre- and post-election reports for the special election. Note that last minute contributions of $1,000 or more received by candidate committees, between two and 20 days before the election, must be reported within 48 hours of their receipt.

All other political committees which support candidates in the special election (and which do not report on a monthly basis) must also follow the reporting schedule for the special election detailed below. Note that last minute independent expenditures aggregating $1,000 or more and made between two and 20 days before an election must be reported within 24 hours after the expenditures are made.

Report	Period Covered	Mailing Date	Filing Date
Pre-election	4/1-5/21	5/26/86	5/29/86
Post-election	5/22-6/30	7/10/86	7/10/86
July Quarterly	Report is waived for committees required to file a post-election report.		

The FEC will send notices on reporting requirements and filing dates to individuals known to be actively pursuing election to this House seat. All other committees supporting candidates in the special election should contact the Commission for forms and more information on required reports. Call 202/376-3120 or, toll free, 800/424-9530.

JULY REPORTING SCHEDULE

The chart and paragraphs on pages 2 and 3 explain the reporting schedule for the various types of filers.

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JULY REPORTING SCHEDULE

Quarterly Report

Due by July 15, the report should cover all activity from April 1 (or from the closing date of the last report filed in 1986) through June 30.

Pre-Primary Report

The report is due 12 days before the primary election and must be complete as of the 20th day before the election. If sent by registered or certified mail, the report must be postmarked no later than the 15th day before the election.

Last-Minute Contributions

Any contribution of $1,000 or more received by a candidate's committee between two and 20 days before an election must be reported in writing by the recipient Committee within 48 hours after it is received. 11 CFR 104.5(f).

Last-Minute Independent Expenditures

Any independent expenditures aggregating $1,000 or more and made between two and 20 days before an election must be reported within 24 hours after the expenditure is made. 11 CFR 104.4(b) and (c).

Monthly Report

The monthly report must be filed by July 20. It should cover all activity from June 1 (or from the closing date of the last report filed in 1986) through June 30.

Semiannual Report

The semiannual report must be filed by July 31. It covers all activity from January 1 through June 30.

Change in Filing Frequency

PACs and party committees which plan to change their reporting schedule (e.g., from quarterly to monthly) must notify the Commission of their intention. The committee may notify the Commission by submitting a letter with the next report due under its current reporting schedule. A committee may not change its filing frequency more than once a year. 11 CFR 104.5(c). The FEC requests that Presidential committees also inform the Commission in writing if they decide to change their reporting schedule.

WHERE REPORTS ARE FILED

Committees must file all reports and statements simultaneously with the appropriate federal and state officials. 11 CFR 108.5.

Filing with the Federal Government

- The principal campaign committees of House candidates and committees supporting or opposing only House candidates file with the Clerk of the House, Office of Records and Registration, 1036 Longworth House Office Building, Washington, D.C. 20515. 11 CFR 104.4(c)(3) and 105.1.
- The principal campaign committees of Senate candidates and committees supporting or opposing only Senate candidates file with the Secretary of the Senate, Senate Public Records, Hart Senate Office Building, Room 232, Washington, D.C. 20510. 11 CFR 104.4(c)(2) and 105.2.
- All other committees, including the principal campaign committees of Presidential candidates, file with the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. 11 CFR 105.3 and 105.4.

Filing with State Governments

- The principal campaign committees of Congressional candidates must file a copy of every report and statement with the Secretary of State or the appropriate elections official of the state in which the candidate seeks federal office. 11 CFR 108.3.
- PACs and party committees making contributions or expenditures in connection with House and Senate races file in the state in which the candidate seeks election. The law requires a copy only of that portion of the report applicable to the candidate(s) being supported. Committees supporting Presidential candidates must file in the state(s) in which the Presidential committee and donor committee have their respective headquarters. See pages 4-6 for the names and addresses of state offices.

HOW TO OBTAIN MORE INFORMATION

Reporting forms for the quarterly (or semiannual) report will be sent to all registered committees. Forms for the pre-primary report will be mailed to candidate committees only. Other committees which are required to file pre-primary or monthly reports should request forms from the FEC or use photocopies of blank forms previously sent to them.

Questions and requests for forms should be addressed to the Information Services Division, 202/376-3120 or, toll free, 800/424-9530.

Type of Filer	Report: Quarterly July 15	Pre-Primary	Monthly July 20	Semiannual July 31
Congressional Candidate Committees: 1986	X	X		
Congressional Candidate Committees: Other Years				X
Presidential Candidate Committees: Monthly Filers[1]			X	
Presidential Candidate Committees: Quarterly Filers	X			
PAC/Party Committees: Monthly Filers[2]			X	
PAC/Party Committees: Quarterly Filers	X	X[3]		
Connected Organizations: Communications[4]	X			

[1] All Presidential committees are required to file on either a monthly or a quarterly basis during 1986. 11 CFR 104.5(b)(2).

[2] All corporate and labor PACs, nonconnected committees and party committees are required to file on either a monthly or a quarterly basis in 1986.

[3] Required only if the committee makes contributions or expenditures (including independent expenditures) in connection with a primary which have not been previously disclosed.

[4] Report required if aggregate costs for partisan, internal communications for all 1986 primaries have exceeded $2,000.

The Record is published by the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. Commissioners are: Joan D. Aikens, Chairman; John Warren McGarry, Vice Chairman; Lee Ann Elliott; Danny Lee McDonald; Thomas E. Harris; Thomas J. Josefiak; Jo-Anne L. Coe, Secretary of the Senate, Ex Officio; Benjamin J. Guthrie, Clerk of the House of Representatives, Ex Officio. For more information, call 202/376-3120 or toll-free 800/424-9530.

STATE RECORDS OFFICES

All political committees are required to file a copy of every report (or the pertinent part of it) with the Secretary of State or the appropriate elections official of the state in which the committee conducts activity. (For specific requirements, see 11 CFR Part 108.) Copies of these campaign finance reports should be filed, and may be reviewed and copied, at the following locations:

ALABAMA
Elections Division
Office of the Secretary of State
Room 13A, State House
Montgomery, AL 36130
205/261-7210 $1.50/pg.

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Office of the Lt. Governor
State Capitol, Room 313
Juneau, AK 99811
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State of Alaska, P.O. Box AA
Juneau, AK 99811

ARIZONA
Office of the Secretary of State
State Capitol, West Wing, 7th Floor
1700 West Washington
Phoenix, AZ 85007
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State Capitol Building, Room 026
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Townsend Building
Dover, DE 19901
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Dover, DE 19901

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Reeves Municipal Center, Room 440
2000 14th St., N.W.
Washington, D.C. 20009
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Office of the Secretary of State
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Tallahassee, FL 32301
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Springfield, IL 62708
State Board of Elections
Suite 14-100
100 West Randolph Street
Chicago, IL 60601
312/917-6440

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507 10th Street, 5th Floor
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Boston, MA 02108
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4th Floor, Mutual Bldg.
208 N. Capitol Avenue
Lansing, MI 48918
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Truman Office Building, 8th Floor
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Jefferson City, MO 65102

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Elections Division
Office of the Secretary of State
State House, Room 218
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State Election Commission
2221 Devine Street, Room 105
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P.O. Box 5987
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Office of the Secretary of State
State Capitol Building, 2nd Floor
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Elections Division
Office of the Secretary of State
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Cheyenne, WY 82002-0020
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NOTE: These reports are made available for public review and copying provided that any information copied from these reports shall not be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose, other than using the name and address of any political committee to solicit contributions from such committee. 2 U.S.C. §438(a)(4).

REGULATIONS

FEC DENIES COMMON CAUSE'S PETITION FOR "SOFT MONEY" RULEMAKING

On April 29, 1986, the Federal Election Commission published a notice in the Federal Register denying a petition for rulemaking filed by Common Cause on November 6, 1984. 51 Fed. Reg. 15915. Common Cause's petition had requested that the Commission initiate a rulemaking to address the alleged improper use, in federal elections, of funds that are ostensibly raised and spent for state and local elections. Such funds are not disclosed under the federal election law.* The agency also considered, but rejected, a staff proposal to revise the regulatory provisions governing the establishment of federal and nonfederal accounts (11 CFR 102.5(b) and 102.6(a)) and the allocation of expenses between the accounts (11 CFR 106.1(e)).

Before reaching its final decision on Common Cause's petition, the Commission took several steps to solicit public comments on the use of "soft money" in federal elections. In January 1985, the Commission invited public comment on the petition by issuing a Notice of Availability. 50 Fed. Reg. 477. Five written comments were received in response to this notice, including a supplementary statement from Common Cause that contained proposed rules addressing the "soft money" issue.

In December 1985, the Commission issued a Notice of Inquiry seeking further comment on the broad range of factual and legal questions which Common Cause and others had raised concerning the "soft money" issue. 50 Fed. Reg. 51535, December 18, 1985. (These issues were summarized in the January 1986 FEC Record, p. 6.) Seventeen submissions were received from 15 persons in response to the Notice of Inquiry. In addition, witnesses representing three interested organizations testified at the Commission's January 29, 1986, public hearing on the notice.

After reviewing the public comments and evaluating the implications of the proposed revisions, the Commission concluded that evidence of improper use of "soft money" in federal elections was insufficient to justify the stringent rules suggested in Common Cause's petition. In the Federal Register notice denying the rulemaking petition, the agency held that the examples offered to support Common Cause's view did not "constitute concrete evidence" that "soft money" had been misused in federal elections. To the contrary, the agency found that "other evidence presented during the proceedings indicate[d] that many transfers to the state and local levels were made from federal funds and were reported to the Commission."

Since "soft money" is ostensibly raised and spent to influence state and local elections, the funds may contain donations that are prohibited or excessive under the Federal Election Campaign Act. If these funds are ultimately used to influence federal elections, a violation of the Act may occur.

OPINIONS

ADVISORY OPINION REQUESTS

The following chart lists recent requests for advisory opinions. The full text of each AOR is available to the public in the Commission's Office of Public Records.

AOR	Subject
1986-14	Sale of committee's campaign van. (Date made public: April 16, 1986; Length: 2 pages)
1986-15	Media expenditures by nonconnected PAC in response to Senate candidate's charges. (Date made public: April 30, 1986; Length: 2 pages, plus 11-page supplement)

ADVISORY OPINIONS: SUMMARIES

An Advisory Opinion (AO) issued by the Commission provides guidance with regard to the specific situation described in the AOR. Any qualified person who has requested an AO and acts in accordance with the opinion will not be subject to any sanctions under the Act. Other persons may rely on the opinion if they are involved in a specific activity which is indistinguishable in all material aspects from the activity discussed in the AO. Those seeking guidance for their own activity, however, should consult the full text of an AO and not rely only on the summary given here.

AO 1986-8: Contributions to Candidate's 1982 Senate Campaign Refunded by his 1986 Senate Campaign

If Mr. James D. Santini becomes a Senate candidate in 1986, the principal campaign committee for his Senate race (the 1986 Committee) may use its campaign funds to refund contributions made to the principal campaign committee for his 1982 Senate race (the 1982 Committee). (Although the 1982 Committee had attempted to refund the contributions before terminating in 1983, several contributors failed to either cash or receive the refunds, totaling approximately $15,200.)

The 1986 Committee should report the refunded contributions as itemized campaign expenditures. See 2 U.S.C. §434(b) and 11 CFR 104.3(b)(4)(v).

The Act and FEC Regulations permit candidates and their campaigns to decide which types of expenditures will most effectively influence their nominations and elections. Further, the Act provides that candidates may use excess campaign funds for any "lawful purpose" (provided they do not convert the excess funds to personal use*). In previous advisory opinions, the Commission concluded that making refunds of contributions to a candidate's former campaign constituted a lawful use of his/her current campaign's excess funds.

The Commission noted that its opinion did not address other issues related to the 1982 Committee's activities. (Date issued: April 23, 1986; Length: 3 pages)

AO 1986-9: Candidate's Use of 1986 Campaign Funds to Reimburse Himself for Legal Expenses

Representative Dan Daniel may use campaign funds of his 1986 reelection campaign to reimburse himself for legal expenses he paid in conjunction with inquiries by the House Committee on Standards of Official Conduct. (The Committee's inquiries concerned certain travel payments which Representative Daniel subsequently reimbursed to the Clerk of the House and Beech Aircraft Corporation.)

Under the Act, a candidate may use excess campaign funds to defray ordinary and necessary expenses incurred in connection with his officeholder duties or to defray expenses for "any other lawful purpose." (The election law prohibits candidates from converting excess campaign funds to personal use, but this prohibition does not apply to individuals, such as Representative Daniel, who were Members of Congress on January 8, 1980.) Consequently, Representative Daniel may use his campaign funds to reimburse himself for the legal expenses regardless of whether the expenses are considered personal expenses; "politically related" expenses; ordinary and necessary expenses of a federal officeholder; or expenses for some other lawful purpose. See AOs 1977-39 and 1985-22.

Reporting Requirements

Since Representative Daniel has two authorized committees for his 1986 reelection effort, the authorized committee that makes the reimbursement should report the transaction. Ir should be disclosed as an "other disbursement." See 11 CFR 104.3(b)(2)(vi). If the reimbursement exceeds $200, the committee must use a Schedule B to:

- o Itemize the amount, date and purpose of the disbursement; and
- o Identify Representative Daniel as the payee. 11 CFR 104.3(b)(4)(vi).

(Date issued: April 22, 1986; Length: 2 pages)

**This prohibition on conversion to personal use does not apply to any candidate (including Mr. Santini) who was a Representative in Congress on January 8, 1980.*

AO 1986-11: Act's Preemption of Ohio Law Governing Campaign Logo

Margaret Mueller's principal campaign committee may use the logo "Margaret Mueller Congress" on stationery, publications and other materials used to promote Ms. Mueller's candidacy for an Ohio House seat, even though the particular wording of her logo may be prohibited by Ohio law. The state law requires the committee of a challenger candidate to include either the word "elect" or "for" in its logo to indicate that the candidate does not currently hold the office being sought. However, since the Act does not contain this requirement and since the Federal Election Campaign Act (the Act) "supersedes and preempts" any provision of state law with respect to election to federal office, the Mueller Committee does not have to include these words in its logo. 2 U.S.C. §453; 11 CFR 108.7.

The Commission based its determination on a series of advisory opinions concerning preemption issues and the legislative history of 2 U.S.C. §453. (Date issued: April 17, 1986; Length: 3 pages)

AO 1986-14: Proceeds from Sale of Committee's Campaign Van

The Dan Burton for Congress Committee (the Committee), Representative Burton's principal campaign committee for his 1986 reelection effort, may sell its depreciated campaign van. The proceeds from the sale will not result in a contribution from the purchaser to the Committee, provided that:

- o The van is sold at the usual and normal price (in this case, a price that conforms with those listed in generally recognized motor vehicle trade publications and that takes into account the overall condition of the van);
- o The Committee does not repurchase or lease back the van; and
- o The sale is not made in connection with political messages or contribution solicitations.

The Commission noted that it was significant that the van was a depreciated asset, that it was used in previous elections and that it would be sold in a single, isolated transaction.

The Committee should report the sales proceeds as "other receipts" and should identify the purchaser as well as the amount and date of the receipt. The Committee may wish to briefly explain that the receipt represents the purchase price paid for the sale of the van.

The Commission distinguished this opinion from several previous opinions where political committees wanted to sell fundraising items or unique campaign materials, or to pursue commercial-type ventures which, over an indefinite period of time, would produce revenue for campaign expenditures. See AOs 1979-17, 1979-76, 1980-19, 1980-34, 1980-70, 1981-7 and 1983-2. In these AOs, the proposed sales would have resulted in contributions. The Burton Committee's situation, however, was closer to two other opinions where political committees were allowed to liquidate assets without the transaction resulting in a contribution. See AOs 1979-24 and 1985-1. Commissioner Thomas E. Harris filed a concurring opinion. (Date issued: May 1, 1986; Length: 7 pages, including concurrence)

COURT CASES

ANTOSH v. FEC (Fourth Suit)

On April 4, 1986, the U.S. District Court for the District of Columbia issued an order which granted the FEC's motion for summary judgment in Antosh v. FEC and which dismissed with prejudice plaintiff Edward Antosh's complaint. (Civil Action No. 85-2036) The court held that, under Article III of the Constitution, Mr. Antosh lacked standing to seek judicial review of the FEC's dismissal of his administrative complaint.

Background

A resident of Oklahoma, Mr. Antosh had filed his administrative complaint with the FEC in April 1984. In the complaint, he alleged that: 1) the Engineers Political Education Committee (EPEC), the separate segregated fund of the International Union of Operating Engineers, had violated the election law by making excessive contributions to Arizona Senator Dennis DeConcini's 1982 primary campaign (the campaign); and 2) the campaign had violated the election law by accepting the excessive contributions. The Commission determined that there was reason to believe EPEC had violated the election law by making excessive contributions to Senator DeConcini's reelection campaign. However, in a tie vote, the agency failed to find reason to believe that the campaign had violated the law.

On June 21, 1985, Mr. Antosh filed suit with the district court. He claimed that the FEC's determination that the campaign had not violated the law was arbitrary and capricious. In cross motions for summary judgment, Mr. Antosh claimed that he had standing to bring suit because, under the election law, "[a]ny party aggrieved by an order of the Commission dismissing a complaint filed by such party...may file a petition with the U.S. District Court for the District of Columbia." 2 U.S.C. §437g(a)(8)(A).

District Court's Ruling

In ruling that Mr. Antosh lacked standing to seek judicial review of the FEC's determination, the court referred to the requirement that an

aggrieved party must "show that he personally has suffered some actual or threatened injury as a result of the putatively illegal conduct of the defendant...." to establish standing under Article III.

The court held that Mr. Antosh failed to meet this requirement. As a citizen of and a registered voter in Oklahoma, Mr. Antosh had "suffered no greater injury, nor likely will he in the future, as a result of the Commission's failure to order a refund, than any other U.S. citizen who is neither a resident of nor with franchise in Arizona." The court concluded that "plaintiff has no interest save his own, which is, at the moment, only that of a public-spirited spectator of Arizona elections."

Finally, the court noted that the standard for qualifying as an "aggrieved party" (eligible to seek judicial review for an administrative agency's determination) was higher than the standard for filing an administrative complaint with an agency. "Congress can permit anyone to engage in proceedings before them [administrative agencies]. But it cannot confer upon a participant at the administrative level the right to maintain a suit to review the agency's decision in federal court, no matter how greviously he may be offended by it...."

The court did not address issues related to the merits of the FEC's administrative determinations or its own jurisdiction to review those determinations.

FEC v. RHOADS FOR CONGRESS COMMITTEE

On May 2, 1986, the U.S. District Court for the Northern District of Illinois approved a consent order between the Commission and the Rhoads for Congress Committee (the Committee), Mark Q. Rhoads's principal campaign committee for his 1982 Illinois House race, and the Committee's treasurer, William E. Naegel. Defendents acknowledged that they had violated section 441a(f) of the election law by accepting excessive contributions from:

- Mary G. Rhoads, the candidate's mother, who made the excessive contributions by personally endorsing and providing security for two loans,* portions of which were accepted by the Committee (i.e., $17,000); and
- The Mid-America Conservative Political Action Committee (MAPAC), a nonconnected PAC. (At the time MAPAC made the excessive contributions, its per election limit was $1,000, rather than $5,000, because the PAC had not yet qualified for multicandidate status.)

Defendents agreed to pay a $2,000 civil penalty within 30 days of the court's order.

ALWIN E. HOPFMANN v. FEC

On May 5, 1986, the Supreme Court denied appellant Alwin E. Hopfmann's petition for a rehearing of his petition for a writ of certiorari in Hopfmann v. FEC (Civil Action No. 85-433). The Court had originally denied the petition in December 1985. Federal court actions on the suit are summarized in the following issues of the Record: May and September 1984 and July and September 1985.

NEW LITIGATION

FEC v. Beatty for Congress Committee

The FEC asks the district court to declare that the Beatty for Congress Committee, the principal campaign committee for Vander L. Beatty's 1982 House campaign, and the Committee's treasurer, Edward Myers, Jr., violated the election law by:

- Knowingly accepting excessive contributions from individuals and from a political committee (2 U.S.C. §441a(f));
- Knowingly accepting an excessive loan from the candidate's family and failing to report the loan (2 U.S.C. §§434(b)(3)(E) and 441a(f));
- Accepting prohibited contributions from corporations and labor organizations (2 U.S.C. §441b); and
- Accepting corporate loans and failing to report them (2 U.S.C. §§441b and 434(b)(3)(E)).

The FEC also asks the court to find that the Committee violated the law's recordkeeping and reporting requirements by:

- Failing to file two 1982 quarterly reports on time (2 U.S.C. §434(a)(2)(A)(iii));
- Failing to file 1982 pre-primary and year-end reports and a 1983 mid-year report (2 U.S.C. §§434(a)(2)(A)(i) and (iii));
- Failing to maintain adequate records of contributions (2 U.S.C. §§432(c)(1)-(3));
- Failing to itemize certain contributions and expenditures (2 U.S.C. §§434(b)(3) and 434(b)(5)(A)); and
- Failing to continuously report two loans until extinguished (11 CFR 104.11(a)).

The FEC asks the court to impose a civil penalty against the Committee and its treasurer amounting to the greater of $5,000 or 100 percent of the total amount involved in the violations.

U.S. District Court for the Southern District of New York, 86-CIV.-3899 (RLC), May 16, 1986.

Under the election law and FEC Regulations, endorsements and guarantees of loans, including those made by the candidate's family, count as contributions to the extent of the outstanding balance of the loan. 2 U.S.C. section 431(a)(A)(i) and 11 CFR 100.7(a)(1)(i)(C).

FEC v. Jimmy Carter Committee for a Greater America

The FEC asks the district court to declare that the Jimmy Carter Committee for a Greater America, a nonconnected PAC, and its treasurer, Chip Carter, violated the election law by failing to file quarterly and post-general election reports with the FEC for the 1984 election year. 2 U.S.C. §§434(a)(4)(A)(i) and (iii).

The FEC further asks the court to:

- o Assess a civil penalty against the defendants amounting to the greater of $5,000 or 100 percent of the amount involved in the violations; and
- o Permanently enjoin the defendants from further violations of the election law.

U.S. District Court for the Northern District of Georgia, Civil Action No. C86-774A, April 7, 1986.

FEC v. New Republican Victory Fund

The FEC asks the district court to declare that the New Republican Victory Fund, a nonconnected PAC, and the Fund's treasurer, Charles R. Black, Jr., violated the election law's reporting requirements during the 1984 election year by failing to file the Fund's October quarterly, year-end and post-general election reports and by failing to file the July quarterly report on time. 2 U.S.C. §§434(a)(4) (A)(i) and (iii).

The FEC further asks the court to:

- o Assess a civil penalty against defendants amounting to the greater of $5,000 or 100 percent of the amount involved in the violations; and
- o Permanently enjoin defendants from further violations of the election law.

U.S. District Court for the Eastern District of Virginia, Alexandria Division, Civil Action No. CA86-0402-A, April 18, 1986.

FEC v. 1984 Victory Fund (Second Suit)

The FEC asks the district court to:

- o Declare that the 1984 Victory Fund (the Fund), a nonconnected PAC, and the Fund's treasurer, Vincent G. Downing, violated the election law by failing to file a 1984 October quarterly report, a 1984 post-election report and a 1984 year-end report (2 U.S.C. §§434(a)(4)(A)(i) and (iii));
- o Assess a civil penalty equal to the greater of $5,000 or 100 percent of the amounts involved in the violations; and
- o Permanently enjoin the defendants from further violations of the election law.

U.S. District Court for the Southern District of New York, Civil Action No. 86-CIV.-3891, May 16, 1986.

COMPLIANCE

FEC PUBLISHES NONFILERS

In April the Commission published the names of two House campaigns (one in Nebraska and one in South Carolina) which had failed to file their first quarterly report. In addition, in April and May, the agency published the names of six Congressional campaigns in Texas, Indiana, North Carolina, Nebraska and Pennsylvania that had failed to file their pre-primary reports, required 12 days before the election.

The election law requires the agency to publish the names of nonfiling candidates. Compliance actions against nonfilers are decided on a case-by-case basis. The law gives the Commission broad authority to initiate enforcement actions resulting from infractions of the law, including civil court enforcement and imposition of civil penalties.

PUBLICATIONS

FEC SENDS ANNUAL REPORT TO PRESIDENT AND CONGRESS

On June 1, 1986, the Commission sent to the President and the Congress the Annual Report 1985, which describes Commission activities and lists Commission recommendations for amending the campaign finance law. (See the April Record for a summary of the recommendations.)

This year's Annual Report also includes, for the first time, a special section on statistical trends. It graphically depicts 1983-84 campaign finance activity conducted by candidates, PACs, political parties and individual supporters.* The publication further discusses:

- o The 1984 Presidential elections;
- o Commission activity, including summaries of major legal decisions; and
- o Budgetary and administrative issues.

Those who are interested in obtaining a copy of the Annual Report 1985 should contact the Information Services Division at 376-3120 or, toll free, 800/424-9530.

**This statistical material was previously published in March 1986 as a special issue of the Record.*

STATISTICS

NEW DATA AVAILABLE ON CONGRESSIONAL CAMPAIGNS

Spending for 1986 Senate and House races has already topped $100 million, according to figures released on May 12 by the Commission. FEC figures also show that Senate candidates have raised almost $80 million, of which approximately 68 percent ($54 million) comprised contributions from individuals. On the House side, candidates have raised more than $87 million, of which 54 percent (or $47 million) came from individuals.

On the chart below, the data reflects the fifteen-month activity of only those candidates who have registered with the FEC for 1986 races. Since some candidates have not yet registered or begun to report, and since some first-quarter reports may have been filed late, the figures do not include all financial transactions for the 1986 elections.

The FEC figures were produced under a new program, which takes information from the summary pages of reports (Form 3) filed by Congressional committees. Previously, the FEC based some of its summary data on the detailed information reported by PACs. The new program provides more timely summary figures to the public. Data is available within 48 hours after the FEC receives the candidates' reports. The program also allows the FEC to provide a comparison between incumbents, challengers and open-seat candidates (those running in an election where the incumbent is not seeking reelection).

Those interested in obtaining up-to-date summary information about candidates (individually or collectively) should contact the Commission's Public Records Office at 376-3140 or, toll free, 800/424-9530. The information is also available through the FEC's Direct Access Program, a project which permits individuals to gain access to the FEC's information data base through personal computers. For more information on this program, contact the Press Office at 376-3155 or, toll free, 800/424-9530.

CANDIDATE CAMPAIGN ACTIVITY
January 1985 through March 31, 1986 1/

	Number	Net 2/ Receipts	Individual Contributions	Contributions from Other Committees 3/	Candidate Contributions	Candidate Loans	Other Loans	Net 4/ Disbursements	Cash on Hand 5/
SENATE	174	$79.80	$54.10	$16.40	$0.30	$2.00	$0.40	$46.00	$42.10
Incumbents	27	46.60	32.30	11.80	0.00	0.00	0.00	24.10	30.10
Challengers	106	17.80	12.10	2.20	0.20	0.90	0.30	12.40	5.90
Open Seats	41	15.40	9.70	2.40	0.10	1.10	0.10	9.50	6.10
HOUSE	1261	$87.30	$46.80	$25.90	$1.30	$6.10	$0.60	$58.10	$57.90
Incumbents	396	62.90	31.30	23.90	0.20	1.30	0.40	39.40	51.70
Challengers	638	9.20	5.40	0.80	0.50	2.20	0.00	7.30	2.30
Open Seats	227	15.20	10.10	1.20	0.70	2.50	0.20	11.40	3.90

(In Millions of Dollars)

1/ For some candidates from Indiana, North Carolina, Ohio and Texas, reporting period extends beyond 3/31/86.

2/ Net receipts include total amounts raised, minus transfers from other committees within the same campaign.

3/ Other Committees column includes contributions from PACs and other candidates' committees.

4/ Net disbursements include total amounts spent, minus transfers to other committees within the same campaign.

5/ Latest cash on hand as of 3/31/86, except for some candidates from Indiana, North Carolina, Ohio and Texas.

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July 1986 999 E Street NW Washington DC 20463 Volume 12, Number 7

INFORMATION

COSTS OF FEC INFORMATION REDUCED BY NEW COMPUTER CONTRACT

The FEC recently approved a six-year computer contract with the Digital Equipment Corporation, which will provide the agency with more services at reduced costs. (The new contract will reduce the FEC's monthly costs for computer services from $50,000 to $42,753.) As a result, when the computer system becomes operational this fall, the agency will be able to improve its information services. For example, the new computer system will:

- o Reduce the time required to retrieve information for the public and the press, thus allowing the agency to handle more information requests on an overnight basis;
- o Expand the storage capacity, permitting the agency to eventually restore financial information from the 1978, 1980 and 1982 election cycles to the data base. (The agency had removed this information from the data base earlier this year because of budget cuts resulting from the Gramm-Rudman-Hollings Deficit Reduction Act.); and
- o Reduce the fee for using the FEC's Direct Access Program from $50 to approximately $22 per hour, while increasing access to the program. (The Direct Access Program is an on-line computer information system specifically designed for individuals with personal computers. The program's capabilities are summarized on page 5 of the March 1986 Record.)

The agency noted that, during the transition to the new computer system this fall, there should be no interruption in computer-based information services to the public.

ADVISORY OPINIONS

AO 1986-12: Excess Funds Transferred from Former Representative's 1984 House Campaign to Retire Debts of Her 1986 Exploratory Committee

Former Congresswoman Geraldine Ferraro may use some excess campaign funds of her 1984 House campaign, the Ferraro for Congress 1984 Committee (the 1984 Committee), to defray expenses of an unregistered committee she established to test the waters for a potential 1986 Senate candidacy in New York, the Ferraro '86 Exploratory Committee (the Exploratory Committee). Ms. Ferraro may transfer any funds consist-

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ing of contributions to her 1984 primary campaign for the House seat. On the other hand, since she was not a candidate for the 1984 general election, she may not transfer those funds which consist of: 1) contributions designated for her 1984 general election campaign for the House seat; or 2) undesignated contributions received after the July 26, 1984, deadline for obtaining ballot access for the New York primary. Instead, these contributions must be refunded to the contributors. 11 CFR 110.1(a).

The 1984 Committee reported all of its contributions as general election receipts because, in the committee's view, this accurately reflected the fact that Ms. Ferraro was unopposed in the primary election for the House seat. Under FEC Regulations, however, even if a candidate is unopposed in a primary, a separate contribution limit applies for the primary election. 11 CFR 110.1(j)(2) and (3). Accordingly, any undesignated contributions the 1984 Committee received by July 26, 1984, the filing deadline for the primary, constituted contributions to Ms. Ferraro's 1984 primary campaign. (The Commission noted that, since Ms. Ferraro did not file for the House primary, she was no longer a candidate once the filing date had expired.)

The Act provides that candidates may use excess funds of such campaigns for any "lawful purpose." 2 U.S.C. §439a. (The law prohibits candidates from converting these excess campaign funds to personal use, but this prohibition does not apply to individuals, such as former Congresswoman Ferraro, who were members of Congress on January 8, 1980.)

By contrast, any contributions designated for her 1984 general election campaign for the House seat and any undesignated contributions received after the July 26, 1984, filing deadline for the primary could not be transferred to the Exploratory Committee because contributions made to a candidate for an election in which he or she does not participate must be refunded to the contributors. See AOs 1980-122, 1982-49 and 1985-41. After July 26, Ms. Ferraro was not a candidate with respect to either the 1984 primary or the general election; nor did she become a House candidate for 1986. Moreover, Ms. Ferraro did not reconstitute the 1984 Committee for some other political purpose; nor did she inform donors (or request their authorization) of some alternate disposition of these funds. Commissioner Thomas J. Josefiak filed a concurring opinion. (Date issued: May 12, 1986; Length: 4 pages, including concurrence.)

AO 1986-13: Eligibility of Trade Association's Corporate Members and State Associations to Finance PAC Expenses

The National Tire Dealers and Retreaders Association Political Action Committee (TIRE PAC), the separate segregated fund of the National Tire Dealers and Retreaders Association (NTDRA), a trade association, may accept solicited and unsolicited donations to its administrative account from: a) corporate members of NTDRA's Supplier Group; and b) 35 state and regional tire dealers and retreaders associations affiliated with NTDRA. TIRE PAC plans to establish a separate account to be used solely to defray its establishment, administration and fundraising costs.

Supplier Group Donations

A corporate member of a trade association may donate funds or merchandise to defray the costs of establishing, administering and soliciting funds to the trade association's separate segregated fund, provided the corporate donor qualifies as a "member" of the trade association under the Act and FEC Regulations.

The corporations belonging to NTDRA's Supplier Group meet the membership requirements, as defined in the law and clarified by the courts and FEC advisory opinions.* Therefore, they are eligible to donate funds for TIRE PAC's administrative expenses and prizes for its fundraisers. The Supplier Group members participate in governing NTDRA by voting for their own representatives on NTDRA's Board of Directors. Moreover, Supplier Group members pay regular dues of a predetermined, minimum amount.

State and Regional Association Donations

In previous advisory opinions, the Commission has also permitted a membership organization to accept donations from affiliated organizations and local units to defray the administration and fundraising expenses of its PAC. See AO 1983-46.

The 35 state and regional organizations with which NTDRA has entered into "agreements of affiliation" meet the affiliation criteria under the election law. 11 CFR 100.5(g)(2)(i)(D) and 110.3(a)(1)(ii)(D). Specifically, NTDRA's agreements of affiliation recognize a formal relationship between NTDRA and each state or regional association. Each agreement provides for mutual support and coordination of activities to promote common interests. (Date issued: May 9, 1986; Length: 5 pages)

**Members are defined as those entities which have governing rights within the organization and an obligation to pay regular dues. See 11 CFR 114.1(e) and AO 1984-33.*

ADVISORY OPINION REQUESTS

The following chart lists recent requests for advisory opinions (AORs). The full text of each AOR is available to the public in the Commission's Office of Public Records.

AOR	Subject
1986-16	Excessive contribution used to liquidate primary debts of unsuccessful candidate. (Date made public: May 22, 1986; Length: 2 pages)
1986-17	Designation of Senate candidate by state party committee as an "election" for purposes of contribution limits; raising and spending general election funds prior to primary. (Date made public: May 22, 1986; Length: 2 pages, plus 3-page supplement)
1986-18	Maintaining campaign funds in cash management account established by brokerage firm. (Date made public: May 23, 1986; Length: 1 page)
1986-19	Primary contribution limit for Senate candidates in states with no primaries; Act's preemption of state laws for purposes of establishing this limit. (Date made public: May 30, 1986; Length: 3 pages)
1986-20	Campaign's purchase and distribution of promotion item to public. (Date made public: June 11, 1986; Length: 1 page, plus 3-page supplement)
1986-21	Reporting requirements for unopposed party convention candidate. (Date made public: June 11, 1986; Length: 1 page)

800 LINE

USING INFORMATION CONTAINED IN REPORTS FILED BY COMMITTEES

Use of Information in Reports

The Federal Election Campaign Act states that: "...any information copied from...reports or statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee." 2 U.S.C. §438(a)(4).

In a series of requests for advisory opinions, the Commission has been asked to interpret this provision of the law. The following questions and answers summarize how the Commission has applied this provision to specific, factual situations.

May the information contained in the reports filed by political committees be used to solicit contributions (either political or charitable) from individuals? No. The law prohibits such use in order to protect the privacy of individual contributors. This prohibition on use of FEC information specifically applies to the names and addresses of individual contributors listed on FEC reports.

May the information about PACs be used for commercial purposes or for soliciting contributions from political committees? The FEC stated in an advisory opinion that the names and addresses of political action committees (PACs) could be used for commercial or solicitation purposes. Individual contributor information, however, could not be used. AO 1980-101.

May a newspaper or magazine publish the information contained in the reports? Information from FEC records may be used in newspapers, magazines, books or other similar communications provided that "the principal purpose of such communications is not to communicate any contributor information listed on such reports for the purpose of soliciting contributions or for other commercial purposes." 11 CFR 104.15(c). See AO 1981-38.

continued

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May a candidate use the names and addresses of individual contributors to his opponent or to other candidates or committees to solicit contributions? No. In AO 1981-5, however, the Commission said that a candidate could use his opponent's list of contributors to send them letters with an explanation of his views, but that the letters could not carry a solicitation.

May an individual use FEC contributor information to verify the names of individual contributors contained on a list intended to be used for commercial purposes? No. By using FEC information to purge individual contributors from an existing list of contributors or to otherwise identify contributors, an individual would be increasing the commercial value of the list, thereby violating Section 438(a)(4)'s ban on commercial use of contributor information. See AO 1985-16.

Use Of Pseudonyms

How can a political committee be sure that no one is using the information it reports to solicit its individual contributors? A committee can determine whether the names and addresses of its contributors are being used illegally by "salting" the reports it files under the Act. The law permits a committee to include on its reports ten fictitious names (referred to under the law as pseudonyms) and addresses.

If a committee learns that a solicitation has been sent to any one of the fictitious names listed on its report, the committee will know that someone has misused the committee's report. Should this occur, the committee may file a complaint with the FEC. The use of pseudonyms enables the committee to protect the privacy of its individual contributors.

In disclosing fictitious contributors on a report, how may a committee avoid inflating the figure reported for total contributions? One way to be sure that the total amount of contributions remains unaltered and accurate is to take a portion of the subtotal for unitemized contributions and allocate it, as fictitious itemized contributions, among several fictitious individual contributors. Each of these fictitious individual contributions would be itemized on a Schedule A. (The committee could assign each fictitious contributor the address of a staffer on the committee, thereby enabling the committee to learn quickly about any illegal solicitations.)

If a committee uses pseudonyms, should it report them to the FEC? Yes. A political committee should send its list of pseudonyms, under separate cover, to the Reports Analysis Division, Federal Election Commission, Washington, D.C. 20463. The list will be maintained only by the Commission and will not become part of the public record. A committee should not send any list of pseudonyms to the Clerk of the House, the Secretary of the Senate or a State's Secretary of State.

LOCAL AND STATE OFFICEHOLDERS WHO BECOME FEDERAL CANDIDATES

In recent months, the Commission has received questions from state and local officeholders who are seeking federal office for the first time. They have wanted to know how the federal election law differs from the election laws in their states. The following questions and answers deal with some of the issues they have raised.

What is the main difference between running for federal office and running for state or local office? Candidates for federal office may not accept contributions from the treasury funds of corporations or labor organizations.*

What types of organizations fall under the prohibition on corporate funds? Under the federal law, the ban on corporate contributions applies to treasury funds of the following organizations:

- o Corporations with capital stock
- o Corporations without capital stock
- o Nonprofit corporations
- o Incorporated membership organizations
- o Incorporated trade associations
- o Incorporated cooperatives

Are there any other prohibitions? Yes. Candidates for federal office may not accept:

- o Contributions from persons who have contracts with the federal government
- o Cash contributions over $100
- o Contributions made in the name of another person.

Moreover, candidates for federal office may not accept contributions from national banks or foreign nationals. These two prohibitions also apply to candidates for state and local office.

What other important differences exist between running for federal office and running for state or local office? Contributions to federal candidates are subject to the election law's dollar limits.** Moreover, federal candidates and their

Although the Act places no such limits on contributions made solely in connection with state and local elections, some states have adopted similar restrictions.

***The contribution limits may be summarized as follows: individuals - $1,000 per candidate, per election; political committees - $1,000 per candidate, per election; multicandidate committees - $5,000 per candidate, per election.*

authorized campaign committees have certain registration and reporting obligations under the election law.* See 11 CFR Parts 101, 102 and 104.

What happens when both state and federal laws pertain to the same election activity? When a federal candidate's campaign activity is governed by both the Act and state law, the Act and Commission Regulations supersede the provisions of state law. 2 U.S.C. §453; 11 CFR 108.7(a) and (b). Commission Regulations specify that the Act supersedes state laws with regard to:

- o The organization and registration of political committees supporting federal candidates;
- o Disclosure of receipts and expenditures by federal candidates and political committees (including disclosure of information on campaign advertising); and
- o Limits on contributions received, and expenditures made, by federal candidates and political committees.

May a federal candidate accept contributions from a group that is not registered with the FEC, such as a state or local political committee? Yes, provided the unregistered political group's contribution consists of permissible funds (i.e., funds which comply with the election law's contribution limits and prohibitions).

How would a candidate know whether such a contribution was from permissible funds? The candidate's committee should ask. The unregistered political group should be able to demonstrate that its contribution came from permissible funds, either by:

- o Having established a separate account containing only those funds which comply with the limits and prohibitions of the Act; or
- o Demonstrating through a reasonable accounting method that, at the time it made the contribution, the group had received sufficient funds that were permissible under the Act to make the contribution. 11 CFR 102.5(b).

Could an unregistered political group's contributions to a federal candidate trigger a registration requirement? Yes. However, the registration requirement depends on the type of political donor:

- o An unregistered political group sponsored by a corporation or a labor organization becomes a political committee under the Act when it makes contributions of any amount in connection with federal elections;*
- o Any other type of unregistered political group becomes a political committee under the Act when the group contributes more than $1,000 in a given calendar year to candidates for federal office.

Once it becomes a political committee under the Act, a political group must register with the FEC within 10 days, file periodic reports and otherwise comply with the election law.

How long would the political group (now registered under the Act) have to keep reporting? The political group could use its very first report as its final report if it wished merely to disclose its contributions to a particular candidate and then cease to be active in federal elections. The treasurer would check the box on the reporting form to indicate that the report was a termination report.

May a federal candidate finance his/her campaign with funds originally donated to the candidate's campaign for state office? Yes, sometimes. Under certain circumstances, funds may be transferred from the candidate's state campaign to his/her federal campaign. The conditions for such transfers are spelled out in an 800 Line article published in the January 1986 Record, pages 8-10.

Note that, if the candidate's state campaign transfers more than $1,000 in a given calendar year to the candidate's federal campaign, the state campaign becomes a political committee under the Act.

CANDIDATE USE OF LOANS AND PERSONAL ASSETS

If a candidate obtains a bank loan for his/her campaign by using personal assets as collateral for the loan (e.g., the candidate's house), how should the loan be reported? The candidate's principal campaign committee should report the bank as the original source of the loan and the candidate as the intermediary. This information must be reported on Schedule C of Form 3. The loan should not be reported as the candidate's personal funds donated or loaned to the campaign.

Must a candidate report campaign loans obtained from a bank before he/she became a candidate? Yes. If a campaign loan is outstanding

continued

**An individual becomes a candidate for federal office (and thus triggers the Act's registration and reporting requirements) when his or her campaign exceeds $5,000 in either contributions or expenditures. 11 CFR 100.3(a).*

**Political groups sponsored by corporations and labor organizations have two registration and reporting options. See AO 1982-46, summarized on page 4 of the September 1982 Record.*

at the time an individual becomes a candidate, the candidate's principal campaign committee should report it as an outstanding loan owed to the bank by the committee.* Even if the individual paid off the loan before becoming a candidate, his/her committee must still disclose the repaid loan on its first FEC report.

May a candidate use assets jointly owned with his/her spouse as collateral for obtaining a campaign loan from a bank? Yes. A candidate's spouse will not be considered a contributor to the campaign, provided the candidate's share of assets (used as collateral) equals or exceeds the amount of the campaign loan. Moreover, if required to do so by a bank, a candidate's spouse may cosign a campaign loan whether or not the loan is secured by joint assets. 11 CFR 100.7(a)(1)(i)(D) and 110.10(b)(3).

If a candidate obtains a campaign loan from a bank by using his/her certificate of deposit as collateral, how should this transaction be reported? The candidate's principal campaign committee should follow the same reporting procedures for a loan secured by a candidate's certificate of deposit that it follows for other campaign loans obtained by the candidate from a bank. See above.

If a candidate cashes in his/her certificate of deposit and loans the funds to the campaign, how should the funds be reported? The funds are considered a loan made by the candidate from personal funds to his/her campaign. As such, the funds must be reported by the candidate's campaign on Schedule C of Form 3 until: 1) the campaign liquidates the loan or 2) the candidate forgives the loan.

If a candidate donates personal funds to his/her campaign, how should this transaction be reported? Personal funds which the candidate donates to his/her campaign are considered a campaign contribution. The funds are not subject to the Act's contribution limits but must, nevertheless, be reported on the Detailed Summary Page of Form 3. If the candidate donates more than $200 during the year, the funds must also be itemized on Schedule A of the form.

**Any campaign loan exceeding $5,000 would trigger an individual's candidacy under the Act. 11 CFR 100.3(a).*

COURT CASES

FEC v. NCPAC (Third Suit)

On May 16, 1986, the U. S. District Court for the Southern District of New York granted the FEC's motion for summary judgment in FEC v. National Conservative Political Action Committee (NCPAC). (Civil Action No. 84 Civ. 0866 (GLG)) The court ruled that expenditures made by NCPAC in its campaign to defeat Senator Moynihan's 1982 reelection effort constituted excessive in-kind contributions to Bruce Caputo. The Court found that NCPAC had further violated the election law by failing to properly report these expenditures as "in-kind" contributions. Accordingly, on June 13, 1986, the court imposed a $15,000 civil penalty on NCPAC and ordered the PAC to file amended reports with the FEC within 30 days of the court's order.

Background

During the 1981-82 election cycle, as part of its strategy to defeat Senator Moynihan, NCPAC established a political action committee, "New Yorkers Fed Up with Moynihan." NCPAC also hired Arthur J. Finkelstein Associates, a polling and political consulting firm, to: develop a media strategy advocating Senator Moynihan's defeat; conduct and analyze polls; and select election issues on which Senator Moynihan was most vulnerable. From April 1981 until August 1982, NCPAC spent $73,755 on its anti-Moynihan campaign. During this time, the Finkelstein firm also worked for Bruce Caputo's campaign.

In March 1981, Mr. Caputo announced that he would seek the Republican Party's nomination for Mr. Moynihan's Senate seat, and he retained Mr. Finkelstein as a paid political consultant. By March 1982, when Mr. Caputo withdrew from the Senate race, his campaign committee had paid Mr. Finkelstein's firm $28,000 to assist in all aspects of Mr. Caputo's Senatorial primary campaign.

In January 1982, the FEC received a complaint from the New York State Democratic Committee alleging that independent expenditures reported by NCPAC for its anti-Moynihan campaign were actually in-kind contributions to the Caputo campaign. In September 1983, the FEC found probable cause to believe that NCPAC's expenditures were, in fact, contributions. NCPAC had therefore exceeded the election law's contribution limits and had violated the disclosure requirements. After failing to reach a conciliation agreement with the respondent, the FEC filed suit against NCPAC on February 6, 1984.

NCPAC did not deny that, on its face, the election law limits the amount of such contribu-

tions. NCPAC claimed, however, that, in making the expenditures, it had relied in good faith on an FEC advisory opinion issued to the PAC in March 1980. (The advisory opinion, AO 1979-80, was summarized on page 4 of the April 1980 Record.)

The Court's Ruling

The district court concluded that NCPAC could not rely on the FEC's advisory opinion because "the distinctions between the facts as they actually unfolded and the facts addressed in the FEC's advisory opinion are patent." The court found that Moynihan and Caputo were "for all practical purposes, opponents" during the primary season. The court also noted that the Finkelstein firm's role in both "the NCPAC and Caputo efforts was far more significant than that of a vendor of advertising services or a polling company. Finkelstein was NCPAC's key strategist. He formulated and directed the execution of NCPAC's plan to defeat Senator Moynihan....Simultaneously, he served as the chief architect of Bruce Caputo's campaign." The court concluded that NCPAC's coordination with the Caputo campaign "far exceeded the 'communication' sanctioned by the FEC" in its advisory opinion. Under these circumstances, the court concluded that "NCPAC's anti-Moynihan expenditures must be deemed contributions to the Caputo campaign" rather than independent expenditures.

FEC v. NATIONAL CONGRESSIONAL CLUB

On May 15, 1986, the U.S. District Court for the Eastern District of North Carolina issued a consent order agreed to by the Federal Election Commission and three defendants: the National Congressional Club (NCC), a multicandidate political committee; NCC's treasurer, R.E. Carter Wrenn; and Jefferson Marketing, Inc. (JMI), a North Carolina corporation that provides media services to political committees. Plaintiff and defendants agreed that:

- o Since NCC and JMI had operated as a single entity,* NCC and its treasurer, R.E. Carter Wrenn, had violated section 434 of the election law by failing to report JMI's financial activity; and
- o Within 30 days of the court's order, defendants would pay a $10,000 civil penalty to the U.S. Treasury for these violations.

Futhermore, defendants no longer contested the FEC's allegation that JMI had violated section 441b of the election law by charging less than the fair market value for services JMI had provided to federal candidates.

**Evidence noted in the consent order for defendants' operation as a single entity included: JMI's financial dependence on NCC, NCC's control over JMI's voting stock and Mr. Wrenn's involvement in JMI's decision-making process.*

In the order, defendants also agreed to establish themselves as separate entities, despite their contention that they had already done so in 1983. In this regard, the following changes would be made:

- o Thomas Ellis and R.E. Carter Wrenn would resign as directors of the Educational Support Foundation, Inc., JMI's sole shareholder;
- o JMI would liquidate its outstanding debt to NCC within 12 months of the date of the consent order;
- o Employees who began working for NCC after the date of the consent order, and who were later employed by JMI, would not be credited with benefits and seniority accrued during their employment by NCC; and
- o As long as he remained an NCC officer, R.E. Carter Wrenn would not act as JMI's director, officer or employee.

After NCC and JMI have made these changes, they will be considered separate entities. However, the FEC reserved the right to file suits and claims against JMI if JMI fails to charge the fair market value for services the organization provides to federal political committees and candidates.

Within 90 days of the consent order, NCC agreed to amend its FEC reports to disclose JMI's financial activity with regard to federal elections during the period from December 1978 to the present.

The suit grew out of an administrative complaint filed by Congressman Charles Rose. In that case, the Commission found probable cause to believe respondents had violated the law; yet, it failed to resolve the matter through conciliation. Thus, on February 7, 1985, the agency filed suit.

FEC v. DRAMESI FOR CONGRESS

On May 2, 1986, the U.S. District Court for the District of New Jersey granted the Commission's motion for a default judgment against defendant, John A. Dramesi for Congress Committee (the Committee), the principal campaign committee for Mr. Dramesi's 1982 House campaign. The court imposed a $5,000 civil penalty on the Committee for accepting excessive contributions.

In a suit filed against the Committee on August 6, 1985 (FEC v. John A. Dramesi for Congress, Civil Action No. 85-4039), the FEC asked the court to declare that the Committee and its treasurer, Russell E. Paul, had violated section 441a(f) of the election law by: 1) accepting an excessive contribution from the New Jersey Republican State Committee; and 2) failing to refund the excessive portion of the contribution (i.e., $4,000) to the state party committee. See 2 U.S.C. §441a(f) and 11 CFR 103.3(b)(1) and (2). At the time the state party committee made the

continued

$5,000 contribution, it had not achieved multicandidate committee status and was, therefore, only eligible to make a $1,000 contribution to the Committee.

NEW LITIGATION

FEC v. Rodriguez

The FEC asks the district court to declare that, during 1980, Cesar Rodriguez violated section 441f of the election law by accepting contributions for the Carter/Mondale Presidential Committee which were made by one person in the names of other persons. Specifically, on behalf of Allen Wolfson, Mr. Rodriguez solicited contributions to the Carter/Mondale Presidential Committee and subsequently reimbursed each contributor for his/her contribution.

The FEC further asks the court to:

- o Assess a civil penalty against Mr. Rodriguez amounting to the greater of $5,000 or 100 percent of the amount involved in the violation; and
- o Permanently enjoin defendants from further violations of the election law.

U.S. District Court for the Middle District of Florida, Civil Action No. 86-687-CIV.T-10.

COMPLIANCE

FEC PUBLISHES NONFILERS

In June, the Commission published the name of a Senate campaign in California that had failed to file its pre-primary report for the state's June 3 Congressional primary. Due by May 22, or by May 19 if sent by registered mail, the report should have covered activity from April 1 through May 14, 1986.

The election law requries the agency to publish the names of nonfiling candidates. Compliance actions against nonfilers are decided on a case-by-case basis. The law gives the Commission broad authority to initiate enforcement actions resulting from infractions of the law, including civil court enforcement and imposition of civil penalties.

CHANGE OF ADDRESS

Political Committees

Registered political committees are automatically sent the Record. Any change of address by a registered committee must, by law, be made in writing as an amendment to FEC Form 1 (Statement of Organization) and filed with the Clerk of the House, the Secretary of the Senate, or the FEC, as appropriate.

Other Subscribers

Record subscribers (who are not political committees), when calling or mailing in a change of address, are asked to provide the following information:

1. Name of person to whom the Record is sent.
2. Old address.
3. New address.
4. Subscription number. The subscription number is located in the upper left hand corner of the mailing label. It consists of three letters and five numbers. Without this number, there is no guarantee that your subscription can be located on the computer.

STATISTICS

FINAL REPORT ON 1984 PRESIDENTIAL PRIMARY ACTIVITY RELEASED

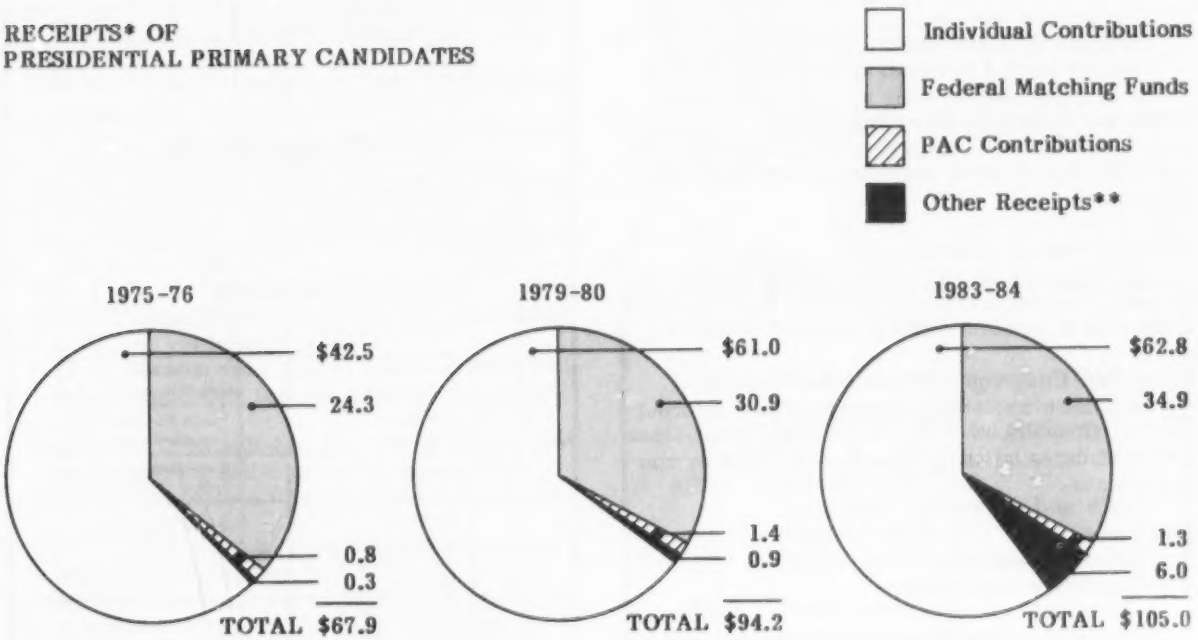
During June, the FEC released its final report on the financial activity of 1984 Presidential primary campaigns. The FEC Reports on Financial Activity, 1983-84, Final Report: Presidential Pre-Nomination Campaigns examines 14 Presidential primary candidates who each spent more than $100,000 seeking the nomination of his or her respective party. Unlike previous Reports, which covered Presidential primary activity only through the election year, this final Report includes approximately $4 million of activity reported by Presidential campaigns well after the conventions (in 1985). A variety of charts and tables in the Report provide a detailed breakdown of the receipts and expenditures for each of the 14 Presidential primary campaigns.

Although focused on Presidential primary activity, the Report also includes information on total independent spending and partisan communications made with respect to Presidential primary and general election campaigns during the 1983-84 election cycle.

The chart below depicts the funding sources for Presidential primary campaigns over three election cycles. For a breakdown of funding sources for each 1984 Presidential primary candidate, see page 4 of the Special Statistical Supplement to the FEC Record, issued in March 1986.

The FEC Reports on Financial Activity, 1983-84, Final Report: Presidential Pre-Nomination Campaigns is available at $1.00 per copy from the FEC's Public Records Office, 999 E Street, N.W., Washington, D.C. 20463 or by calling: 376-3140 locally or, toll free, 800/424-9530.

RECEIPTS* OF PRESIDENTIAL PRIMARY CANDIDATES



Includes total receipts minus transfers between each candidate's authorized committees, contribution refunds, loan repayments and offsets to expenditures.

***For the 1983-84 election cycle, this category consists largely of loans which the candidates' authorized committees have not yet repaid.*

PUBLICATIONS

FREE PUBLICATIONS

The FEC offers the following free publications. To order, return the completed form below.

Federal Election Campaign Laws

Complete compilation of Federal election campaign laws prepared by FEC.

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FEC regulations; subject indexes prepared by FEC.

FEC Record

Monthly newsletter covering reporting, advisory opinions, litigation, legislation, statistics, regulations, compliance, Federal Register notices, FEC procedures and staff, and publications.

Campaign Guides

Clear explanation and illustration of election law requirements. Separate Guide for:

- Congressional Candidates and Committees
- Party Committees
- Corporations and Labor Organizations
- Nonconnected Political Committees

House and Senate Bookkeeping Manual

Recommended method of bookkeeping and reporting for Federal candidates and their committees.

FEC and Federal Election Law

Brief overview of major provisions of the Federal Election Campaign Act and the Commission's role in administering it.

Using FEC Campaign Finance Information

Brochure explaining how to gather information on financial activity of political committees and candidates by using reports and FEC's computer indexes.

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- Advisory Opinions
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Report to President and Congress, summarizing agency's activities, advisory opinions and litigation; and presenting Commission's legislative recommendations.

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RECORD

August 1986 999 E Street NW Washington DC 20463 Volume 12, Number 8

REPORTS

HAWAII SPECIAL ELECTION

On September 20, 1986, Hawaii will hold a special election in its first Congressional District to fill the seat vacated by Representative Cecil L. Heftel.

Political committees authorized by candidates who are participating in the special election must file pre- and post-election reports for the special election. Note that last-minute contributions of $1,000 or more received by candidate committees between two and 20 days before the election must be reported within 48 hours of their receipt.

All other political committees which support candidates in the special election (and which do not report on a monthly basis) must also follow the reporting schedule for the special election detailed below. Note that last-minute independent expenditures aggregating $1,000 or more and made between one and 20 days before an election must be reported within 24 hours after the expenditures are made.

Report	Period Covered	Mailing Date	Filing Date
Pre-election	7/1-8/31	9/5/86	9/8/86
Post-election	9/1-10/10	10/20/86	10/20/86
October Quarterly	Report is waived for committees required to file a post-election report.		

The FEC will send notices on reporting requirements and filing dates to individuals known to be actively pursuing election to this House seat. All other committees supporting candidates in the special election should contact the Commission for forms and more information on required reports. Call 202/376-3120 or, toll free, 800/424-9530.

REPORTING BY UNOPPOSED CANDIDATES

The principal campaign committees of candidates who are unopposed in an election must file pre-election reports, regardless of whether their names appear on the ballot. See AO 1986-21, which is summarized on page 6. (Issued on June 27, 1986, this advisory opinion supersedes AOs 1978-41 and 1978-65.)

The FEC will be sending reporting forms and notices on reporting requirements to individuals known to be actively pursuing election to House and Senate seats during 1986, including those who are unopposed in primary elections.

For more information on required reports, call 202/376-3120 or, toll free, 800/424-9530.

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GUAM CONGRESSIONAL ELECTION: CORRECTION

The January 1986 Record erroneously reported that the primary election for Guam's Delegate to the U.S. House of Representatives would be held on September 2, 1986. In fact, the election will be held on September 6. The correct schedule for filing the pre-election report is:

Closing Date of Books	Mailing Date	Filing Date
August 17	August 22	August 25

REGULATIONS

CONTRIBUTION LIMITS AND PROHIBITIONS: NOTICE OF PROPOSED RULEMAKING PUBLISHED

On July 17, 1986, the Commission approved a notice of proposed rulemaking for publication in the Federal Register concerning possible revisions to its regulations governing limits and prohibitions on contributions made to federal candidates and political committees. (11 CFR 110.3 through 110.6) The agency also announced that, on September 17, 1986, it will hold a hearing on the proposed rules.

Comments on the notice of proposed rulemaking should be submitted in writing to Ms. Susan E. Propper, Assistant General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. Those who are interested in testifying at the public hearing should so indicate on their written comments.

The proposed revisions to these regulations are intended to clarify the rules and address issues which have arisen since the current rules were promulgated in 1977. Please note, however, that these suggested revisions do not represent a final decision by the Commission.

Most of the issues raised for comment concern section 110.3, which governs contributions and transfers by affiliated committees and party committees and section 110.6, which governs earmarked contributions. Although the Commission has not proposed major changes to sections 110.4 and 110.5, comments are sought on possible revisions to these rules. The major areas of proposed changes to the rules are highlighted below.

Contribution Limits for Affiliated Committees (110.3(a))

Under section 110.3, political committees are considered "affiliated" if they are established, financed, maintained or controlled by the same corporation, labor organization, or any other person or group of persons, including any parent, subsidiary, branch, division, department or local unit. These affiliated committees are subject to a single contribution limit on both contributions they make and contributions they receive. Several revisions have been proposed to section 110.3(a) to make it clear which committees are considered "affiliated" and, therefore, subject to a single contribution limit. For example, the proposed rules would clarify that, in appropriate instances, the term "local unit" may include a franchisee, licensee, or state or regional association. Minor amendments have also been proposed to the list of committees viewed as per se affiliated (i.e., automatically affiliated) because they have been established, financed, maintained, or controlled by the organizations listed.

Indicia of Affiliation. The proposed revisions make clear that, to determine whether committees are affiliated, the Commission may examine a variety of relationships, including those: between their sponsoring organizations; between the committees themselves; or between one sponsoring organization and a committee established by another organization.

The agency seeks comments on adding factors to the indicia that may be used to determine whether affiliation exists between committees which are not considered per se affiliated. Specifically the new factors would permit consideration of:

- o Whether the committees (or their parent organizations) share common memberships, officers, employees or funding; and
- o Whether a committee (or the committee's parent organization) had a significant role in forming another political committee.

The Commission also seeks comments on whether the indicia of affiliation should be applied to determine whether a political committee sponsored by a candidate is affiliated with the candidate's authorized committee(s).

Contribution Limits for Political Party Committees (110.3(b))

The current rules provide that a political party's national committee (and its committees) and the same party's state committee have separate contribution limits.

National Party Committee Limits. Proposed revisions would make clear that a party's Senate campaign committee and its national committee share a $17,500 election cycle limit on contributions to Senatorial candidates, but that the two committees have separate limits for contributions to other candidates and committees.

State Party Committee vs. Subordinate Party Committee Limits. Since a state party committee and its subordinate party committees are presumed to be affiliated, they share a single contribution limit, unless a subordinate committee can prove it is independent of the state committee. The proposed rules provide criteria that a state committee or its subordinate committee would have to use to demonstrate independence.

The Commission requests comments on these proposed criteria and suggestions for other factors that could be considered in determining whether a subordinate committee and the state committee are separate political committees for purposes of the contribution limits.

Transfers (110.3(c))

The final area in which the Commission is proposing revisions to section 110.3 concerns the provisions on transfers of funds. The proposed rules would cross reference the Commission's regulations governing transfers and collecting agents at 11 CFR 102.6 and the rules on joint fundraising at 11 CFR 102.17. The proposed regulations would retain the provisions regarding transfers involving candidate committees, which are currently found in sections 110.3(a)(2)(iii) through (a)(2)(v) of the rules. However, the Commission is considering amending these rules to address the three situations described below.

Transfers From State to Federal Campaigns. The Commission is considering whether to address transfers from a candidate's state campaign to his or her federal campaign. In several advisory opinions, the Commission has permitted candidates to transfer funds from previous state campaign committees to their current federal campaign committees, provided certain requirements were met. (See AOs 1982-52, 1983-34, 1984-46 and 1985-2.)

The Commission seeks comments on whether section 110.3 should be revised to include these requirements for transfers from a state campaign to a federal campaign.

Transfers Between the Campaigns of a Candidate Running for More than One Office. With regard to transfers between the principal campaign committee of a candidate who simultaneously seeks election to more than one federal office, the agency is considering changes to clarify:

- o When a candidate is actually seeking nomination or election to more than one federal office; and
- o When a candidate is "not actively seeking" nomination or election to more than one federal office.

Transfers From Inactive to Active Campaign of Same Individual. The Commission also seeks comments on whether section 110.3 should be amended to clarify issues which arise when a candidate abandons one campaign for federal office (e.g., a Senate campaign) and reactivates a previous campaign for another federal office (e.g., a House campaign). See AO 1984-38.

Earmarked Contributions (110.6)

Under the current rules, a contribution earmarked to a candidate through a conduit is considered to have been made by the original contributor, thus counting against his/her contribution limit for that candidate.

To clarify who is subject to these rules, the Commission seeks comments on the following issues:

1. Should the regulations include a list of factors for determining whether a person (individual, group or committee) is a conduit?
2. Should separate segregated funds act as conduits for earmarked contributions? In several opinions, the Commission has stated that separate segregated funds could act as conduits for earmarked contributions, provided certain conditions were met. (See AOs 1986-4, 1981-21 and re: AOR 1976-92.)
3. Should the rules apply to contributions earmarked to political committees which are not authorized by candidates?

Reporting of Earmarked Contributions. Both conduits and recipients must report earmarked contributions. The proposed rules would consolidate and clarify several reporting provisions. For example, under the proposed rules, conduits who usually are not required to report (e.g., individuals) would file a letter by a specific date.

The Commission also seeks comments on proposals which involve:

- o Reporting certain earmarked contributions as memo entries;
- o Deleting the exception for reporting earmarked contributions totaling less than $1,000 per year; and
- o Clarifying what information the recipient candidate must report.

Direction and Control Over Earmarked Contributions. Under the current rules, if a conduit

continued

The Record is published by the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. Commissioners are: Joan D. Aikens, Chairman; John Warren McGarry, Vice Chairman; Lee Ann Elliott; Danny Lee McDonald; Thomas E. Harris; Thomas J. Josefiak; Jo-Anne L. Coe, Secretary of the Senate, Ex Officio; Benjamin J. Guthrie, Clerk of the House of Representatives, Ex Officio. For more information, call 202/376-3120 or toll-free 800/424-9530.

exercises direction or control over an earmarked contribution, the contribution is considered to be from both the original contributor and the conduit and counts against the contribution limits of both. The contribution must be reported by both parties as such. The Commission is considering revising this provision to state that a conduit would be considered a co-contributor if the conduit exercised "direct or indirect control" over making the contribution. The rulemaking notice also suggests criteria for determining whether a conduit has exercised "direction and control" over an earmarked contribution. (See AO 1986-4, AOR 1976-92 and MUR 1028.) Finally, the suggested revisions clarify the reporting requirements for contributions over which the conduit exercises control.

OPINIONS

ALTERNATE DISPOSITION OF ADVISORY OPINION REQUESTS

AOR 1986-10: Affiliated Status of Two Nonconnected PACs Using Same Consulting Firm

In a letter of June 27, 1986, the General Counsel stated that, since the requester had not responded to the FEC's request for additional information, the advisory opinion request would be treated as withdrawn. The request may, however, be resubmitted at a later date.

AOR 1986-15: Media Expenditures by Nonconnected PAC in Response to Senate Candidate's Charges

The FEC confirmed the requester's withdrawal of the advisory opinion request in a letter of June 18, 1986.

AOR 1986-16: Excessive Contribution Used to Liquidate Primary Debts of Unsuccessful Candidate

The requester withdrew the advisory opinion request in a letter of June 17, 1986.

ADVISORY OPINION REQUESTS

The following chart lists recent requests for advisory opinions (AORs). The full text of each AOR is available to the public in the Commission's Office of Public Records.

AOR	Subject
1986-22	Rebate offered by t.v. station to candidate who increases spending on campaign ads. (Date made public: June 24, 1986; Length: 2 pages, plus 3-page supplement)
1986-23	Trade association's discount to Congressional offices for game simulating Congressman's term and reelection campaign. (Date made public: June 25, 1986; Length: 4 pages)
1986-24	PAC's deposit of estate gift in escrow account. (Date made public: June 30, 1986; Length: 4 pages, plus 13-page supplement)
1986-25	Corporation's use of FEC contributor names in its publications. (Date made public: July 1, 1986; Length: 5 pages, plus 19-page supplement)
1986-26	Presidential candidates' appearances at convention sponsored by nonprofit corporation. (Date made public: July 3, 1986; Length: 3 pages, plus 41-page supplement)
1986-27	Consolidated reporting of state and federal PACs' activities with state filing office. (Date made public: July 14, 1986; Length: 2 pages)

ADVISORY OPINIONS: SUMMARIES

AO 1986-17: State Party Convention Not Election; General Election Contributions Received and Spent Before Primary

Mark Green sought his party's designation as a U.S. Senate candidate at the New York State Democratic Committee's convention in June. He qualified at that time to be a candidate in the September 9th primary. To promote his Senate candidacy in New York, Mr. Green established a principal campaign committee, Friends of Mark Green (the Green Committee). In response to Mr. Green's request for an advisory opinion, the Commission addressed two separate issues concerning his candidacy:

1. State Party Convention Not an Election

The New York State Democratic Committee's designation of a U.S. Senate candidate at its

convention is only one means by which an individual may obtain ballot access for the Democratic Senate primary in New York. Accordingly, since the convention does not have "the authority to nominate a candidate" for the Senate seat, it does not qualify as an "election." Thus, there is no separate contribution limit for Mr. Green's convention activity. Rather, it is considered part of the primary election process. See 2 U.S.C. §431(1) and 11 CFR 100.2.

2. General Election Contributions Received and Spent Before the Primary

Under certain limited circumstances, the Green Committee may receive and spend, before the primary, contributions that are designated for the general election. Any such expenditures must be for the general election only. Specifically, the Green Committee may make advance payments to vendors for services and goods that will be provided to the Committee once Mr. Green becomes a general election candidate. However, the Green Committee may not use general election contributions to make expenditures for an activity designed to promote: 1) Mr. Green's nomination as his party's Senate candidate or 2) both his nomination and general election efforts. 2 U.S.C. §441a(f); AO 1980-122.

If Mr. Green does not become a candidate for the general election, the Green Committee must, within a reasonable time, refund any contributions designated for the general election because a separate contribution limit will no longer be available to these contributors. Even if the Green Committee has already spent these contributions, they must be refunded.

The Commission noted that this opinion supersedes AO 1982-49, to the extent that AO 1982-49 may be interpreted as precluding the spending of general election contributions for those limited purposes described in this opinion. (See above.) Commissioner Thomas E. Harris filed a dissent. (Date issued: June 27, 1986; Length: 9 pages, including dissent)

AO 1986-18: Maintaining Campaign Funds in Cash Management Account Established by Brokerage Firm

Friends of Tom Bevill (the Committee), Mr. Bevill's principal campaign committee, may transfer campaign funds currently invested in certificates of deposit to a Merrill Lynch Cash Management Account, an investment program which provides: 1) a cash deposit account with debit card privileges and 2) a revolving investment fund composed of U.S. government obligations. Since the Act and FEC Regulations require campaigns to make campaign disbursements (except petty cash payments) with checks drawn on the campaign's designated depository, the proposed transfer would be permissible provided that the Committee:

- o Transfers funds to the Cash Management Account solely for investment purposes (and not for the purpose of making campaign disbursements); and
- o Returns the transferred funds (and any interest or dividends earned on the funds) to the checking account of the Committee's campaign depository* before using them for campaign disbursements. 2 U.S.C. §432(h)(1) and 11 CFR 103.3(a).

Since campaign disbursements must be made from the checking account of the committee's designated depository, the Committee may not use the debit card provided by the Cash Management Account for the purpose of spending campaign funds.

The Committee must disclose dividends or interest earned on the Cash Management Account. Moreover, the Committee must itemize this interest income if it exceeds $200 per year. See 2 U.S.C. §434(b)(3)(G) and 11 CFR 104.3(a)(4)(iv). Commissioner Thomas J. Josefiak filed a concurring opinion. (Date issued: June 19, 1986; Length: 5 pages, including concurrence)

AO 1986-20: Promotion Item Prepared and Distributed by Campaign

The "People for Mark Andrews" Committee (the Committee), the principal campaign committee for North Dakota Senator Andrews' 1986 reelection effort, may pay for the purchase, packaging and distribution of a campaign promotion item--a small plastic bag of bran with a recipe for bran muffins attached to one side. The Committee will pay the fair market value for milling and packaging the bran. Both the package label and the recipe on each bag will bear the disclaimer: "Paid for by the 'People For Mark Andrews.' " Campaign staff will give the bags away at county and state fairs from July through September 1986.

The Commission has stated in numerous advisory opinions that a candidate has broad discretion in the use of campaign funds, including expenditures for campaign promotion items. See especially AOs 1980-14 and 1980-93.

The Committee must report costs incurred for this promotion item as "operating expenditures" on line 17 of FEC Form 3. Any payments totaling more than $200 per year to the same payee must also be itemized on Schedule B. (Date issued: June 27, 1986; Length: 2 pages)

**The law's definition of "campaign depository" is limited to banks and other banking institutions and does not include a brokerage firm. See 2 U.S.C. Section 432(h)(1).*

AO 1986-21: Pre-Election Reporting Requirement for Unopposed Primary Candidate

Wayne Owens was unopposed in his campaign to seek the Democratic party's nomination for a House seat from Utah's Second Congressional District. Since the party's June 28th State convention had the authority to nominate the Democratic candidate for this House seat, the convention's nomination of Mr. Owens constituted an "election" under the Act, even though he was unopposed in the convention. 2 U.S.C. §431(1)(b); 11 CFR 100.2(e). Accordingly, Mr. Owens' principal campaign committee, the Wayne Owens for Congress Committee, should file a pre-election report for that nominating convention. 11 CFR 104.5(a)(1)(i).

The Commission noted that this opinion supersedes its ruling in two previous opinions--AOs 1978-41 and 1978-65--to the extent that those opinions suggest that candidate committees are not required to file pre-election reports when the candidate is unopposed in a primary election or when the candidate's name does not appear on the ballot. The Commission said that it issued those opinions at a time--prior to the 1980 amendments--when the Commission had more discretion to waive reporting requirements. (Date issued: June 27, 1986; Length: 3 pages)

COURT CASES

COMMON CAUSE v. FEC (Suit Three)

On June 25, 1986, the U.S. District Court for the District of Columbia issued an opinion in Common Cause v. FEC, a suit in which Common Cause challenged the FEC's dismissal of an administrative complaint, which the organization had filed with the Commission in September 1984. (Civil Action No. 85-0968) In remanding the suit to the FEC, the court ordered the agency to provide: 1) an explanation of the legal standard that the agency had used in making its decision to dismiss the complaint and 2) a statement of reasons demonstrating how the FEC had applied this legal standard to the facts before it. The court noted that, on remand, the FEC could reach a different conclusion with regard to the merits of Common Cause's administrative complaint.

Background

On August 24, 1984, two days after he received the Republican Party's Presidential nomination, President Reagan addressed a convention of the Veterans of Foreign Wars (the VFW) in Chicago. During his speech, Mr. Reagan did not expressly mention his candidacy; nor did he solicit contributions to his campaign. Since the Reagan administration viewed the Chicago trip as official business, the administration allowed the government to absorb the travel costs and did not report them to the FEC.

On September 20, 1984, Common Cause filed an administrative complaint with the FEC against the Reagan-Bush '84 General Election Committee (the Reagan campaign), President Reagan's principal campaign committee for his 1984 general election campaign. In the complaint, Common Cause alleged that the travel costs related to President Reagan's Chicago speech constituted "qualifed campaign expenses"* incurred for Mr. Reagan's publicly funded general election campaign. Consequently, Common Cause claimed that the Reagan campaign had to: 1) pay for and report the costs of the Chicago trip as "qualified campaign expenses" and 2) reimburse the government for using a government airplane to make the trip.

On December 24, 1984, the FEC's General Counsel recommended that the Commission find "reason to believe" that the Reagan campaign and its treasurer had violated provisions of the election law and public funding statutes by failing to report these expenses. On January 15, 1985, however, the Commission decided, by a four to two vote, to find "no reason to believe" the Reagan campaign and its treasurer had violated federal election laws. Consistent with past practice, the Commission did not issue a formal statement of reasons for its decision to dismiss Common Cause's administrative complaint.

On March 22, 1985, Common Cause challenged the FEC's dismissal decision by filing suit against the Commission with the district court. In its suit, Common Cause asked the court to: 1) declare that the FEC's dismissal of its administrative complaint was contrary to law and 2) order the agency to act on the allegations in its complaint.

In arguing that the FEC's dismissal was contrary to law, Common Cause said that, in determining whether President Reagan's Chicago trip was campaign related, the Commission should have considered the "totality of circumstances" surrounding his Chicago speech rather than using a narrower review standard, which focused solely on: 1) whether President Reagan's speech expressly advocated his reelection and 2) whether he solicited contributions in conjunction with his speech.

The Court's Ruling

Although accepting the legal standard which the parties agreed had been applied by the FEC in

**FEC Regulations define "qualified campaign expenses" as those expenditures made during the reporting period to further the general election campaign of a publicly funded Presidential candidate. See 11 CFR 9002.11.*

its dismissal of Common Cause's complaint, the court observed that it still had to "determine whether the agency has presented a rational basis for its decision." In this regard, the court noted that "the record before us prevents that threshold determination." The court therefore remanded the case to the FEC "both for an explanation of the legal standard actually applied and...a statement of reasons demonstrating how the Commission applied such legal standards to the facts before it."

FEC v. RE-ELECT HOLLENBECK TO CONGRESS COMMITTEE

On June 16, 1986, the U.S. District Court for the District of Columbia denied the Commission's motion for summary judgment and entered a judgment for the defendants in FEC v. Re-Elect Hollenbeck to Congress Committee (Civil Action No. 85-2239). The court held that the Re-Elect Hollenbeck to Congress Committee (the Hollenbeck Committee), Representative Hollenbeck's principal campaign committee for his 1982 reelection effort, and the Hollenbeck Committee's treasurer, David I. Korsh, had not knowingly violated the election law by accepting an excessive contribution from the New Jersey Republican State Committee.

Background

In 1982, when the New Jersey Republican State Committee (the State Committee) made a $5,000 contribution to the Hollenbeck Committee, the State Committee had not achieved multicandidate committee status* because it had not yet satisfied the six-month registration requirement. Consequently, the State Committee was only eligible to make a contribution of up to $1,000 per election to each candidate, and the Hollenbeck Committee could legally receive only $1,000 for the primary election.

On learning of the State Committee's excessive contributions, the FEC initiated enforcement proceedings against the State Committee, the campaign committee of each New Jersey Republican incumbent and their respective treasurers. When the Commission failed to reach a settlement with the Hollenbeck Committee, the agency filed a suit against the Committee in which it asked the district court to: 1) assess a $5,000 civil penalty against the defendants for violating §441a(f) of the Act in accepting the State Committee's excessive contribution and 2) order the Hollenbeck Committee and its treasurer to refund the excessive portion of the contribution (i.e., $4,000) to the State Committee.

Acknowledging receipt of the $5,000 contribution, the Hollenbeck Committee denied "knowingly accepting" an illegal contribution. The Committee argued that it had "erroneously assumed that the State Committee had qualified for the status of a multicandidate political committee."

The Court's Ruling

The court noted that, under FEC Regulations, a campaign committee's "treasurer shall make his or her best efforts to determine the legality of any contribution"* made to the campaign. The court observed that this regulation was "not unduly burdensome. It does not place an affirmative obligation upon the treasurers to verify the legality of every contribution. Rather, it requires verification of contributions that 'appear to be illegal,' including those exceeding $1,000 that do not appear to come from a multicandidate committee."

In ruling that the Hollenbeck Committee should not be held liable for the State Committee's excessive contribution, the court held that the State Committee's contribution to the Hollenbeck Committee "would appear to be legal to any reasonable treasurer...."

FEC v. NEW REPUBLICAN VICTORY FUND

On June 23, 1986, the U.S. District Court for the Eastern Division of Virginia, Alexandria Division, approved a consent order between the Commission and defendants, the New Republican Victory Fund (the Fund), a nonconnected political committee, and the Fund's treasurer, Charles R. Black, Jr. The consent order provides that defendants violated section 434(a)(4)(A) of the election law during the 1984 election cycle by:

- o Failing to file the Fund's October quarterly, year-end and post-general election reports; and
- o Filing its July quarterly report approximately 64 days late.

Within 30 days of filing the consent order, the defendants agreed to:

- o File these reports; and
- o Pay a $2,350 civil penalty to the U.S. Treasurer.

The consent order concluded a suit filed by the FEC on April 18, 1986 (CA No. 86-402-A).

continued

**Multicandidate committees may contribute up to $5,000 per election to a candidate's authorized committee(s) or any other political committee. To achieve multicandidate status, a committee must have more than 50 contributors, have been registered for at least six months and, with the exception of state party committees, have made contributions to five or more candidates for federal office. 2 U.S.C. Section 441a(a)(4); 11 CFR 100.5(e)(3).*

**See 11 CFR 103.3(b)(1).*

NEW LITIGATION

John Glenn Presidential Committee, Inc. v. FEC

The John Glenn Presidential Committee, Inc. (the Committee), the principal campaign committee for Senator Glenn's publicly funded 1984 Presidential primary campaign, asks the appeals court to review a final repaymant determination the FEC made with regard to the Committee. In its May 15, 1986, decision, the agency found that the Committee had made nonqualified campaign expenses (amounting to $248,004.62) as a result of exceeding its spending limits for the Iowa and New Hampshire primaries.* Accordingly, within 20 days of its decision, the FEC required the Committee to repay $74,955.62 to the U.S. Treasury for these nonqualified expenses.**

U.S. Court of Appeals for the District of Columbia Circuit, CA No. 86-1348.

Common Cause v. FEC (Suit Four)

On April 29, 1986, the FEC denied Common Cause's petition for rulemaking on issues related to the use of "soft money"*** in federal elections. (See 51 Fed. Reg. 15915.)

Common Cause and four of its members ask the district court to:

- o Declare that the Commission's denial of Common Cause's rulemaking petition was contrary to law; and
- o Issue an order directing the Commission to reconsider Common Cause's rulemaking petition in conformity with the court's opinion.

U.S. District Court for the District of Columbia, Civil Action No. 86-1838, June 30, 1986.

The public funding statutes require Presidential primary candidates to repay the U.S. Treasury for nonqualified campaign expenses. 26 U.S.C. Section 9038(b)(2). Under the statutes, spending in excess of the state-by-state spending limits is considered one type of nonqualified campaign expense.

***When a campaign incurs nonqualified expenses, the campaign must make a repayment based on the ratio of federal funds to total funds received by the candidate (both private and federal funds). 11 CFR 9038.*

****In its complaint, Common Cause defines the term "soft money" as "funds from sources prohibited under the FECA that are given to political committees and party organizations ostensibly for use at the state or local level, but which are actually used in connection with and to influence federal elections in violation of the FECA."*

COMPLIANCE

MUR 1964: Accepting Excessive Contributions; Attribution to Spouse

This MUR, resolved through conciliation, involved a Senate candidate committee which accepted excessive contributions and inaccurately reported these contributions.

Complaint

The MUR was internally generated by the Commission in the normal course of carrying out its administrative responsibilities. A review of the report filed by the candidate indicated receipt of contributions that exceeded the election law's dollar limits. Moreover, the candidate committee did not follow the procedures contained in Commission Regulations for handling contributions which appear to be illegal. 11 CFR 103.3(b).

General Counsel's Report

The Commission's investigation indicated that the candidate committee received excessive contributions from 42 individuals and from two political committees which had not qualified for multicandidate status. 2 U.S.C. §441a(a)(1)(A). These contributions (totaling $44,301) were not refunded or redesignated within a reasonable length of time. Under the election law, contributions must be screened within 10 days of receipt and timely accounted for to avoid any violations. The Committee had employed a system which screened contributions only at the end of the reporting period. This procedure did not permit the committee to follow the guidelines for handling contributions which appear to be illegal.

According to the candidate committee, the contributions from the two political committees had been designated for different elections, i.e., for the general election and the primary. The committee, however, had failed to report the contributions accurately. 11 CFR 104.14(d).

In the case of the contributions from individuals, the investigation indicated that the candidate committee had not provided the necessary written documentation in support of 16 reattributions between spouses. 11 CFR 100.7(c) and 104.8(d). The Regulations require that a contribution from a married individual may not be attributed to a spouse unless specified in writing by the contributor or the person to whom the contribution is attributed. The Commission concluded that the 16 contributions allegedly reattributed to the spouses of the contributors were excessive contributions.

The General Counsel recommended that the Commission enter into conciliation with the committee prior to finding probable cause to believe the committee had violated the Act.

Commission Determination

The Commission found reason to believe that the candidate committee violated the Act by knowingly accepting excessive contributions and inaccurately reporting contributions. In the conciliation agreement, the candidate committee refunded the excess portion of contributions received; amended its reports to accurately disclose all contributions; and agreed to pay a $5,000 fine.

INFORMATION

FEC STAFF WILL CONTINUE ENTRY OF PAC DATA

In July, the Commission announced that it would continue to computerize information on political action committee (PAC) contributions to federal candidates. In January, the Commission had considered discontinuing this program in response to budget cuts mandated by the Gramm-Rudman-Hollings Deficit Reduction Act. The agency deferred that decision, however, for nearly five months, to determine if FEC staff--rather than an outside contractor--could handle efficient entry of the PAC information.

While the entry of itemized PAC information has been somewhat less timely than in the past, the Commission considers this staff effort very successful. Recognizing that the volume of data will increase in this election year, the FEC will hire several additional data entry clerks on a temporary basis to maintain the efficiency of these operations.

Despite the mandated budget cuts, the agency has continued to offer computerized information on the 1984 and 1986 election cycles. This information includes total receipt and disbursement figures from the reports of candidate committees, party committees and PACs. Data from the second summary page of candidate reports is also available through the FEC's computer system, along with detailed contribution information from PACs and party committees. (For the years prior to 1983, this information is on microfilm.)

Under its new computer contract, the agency plans to restore financial information from the 1978, 1980 and 1982 election cycles. Eventually, the agency hopes that the public will have access to all such data through the computer. (For more information on the enhanced computer capabilities resulting from the contract, see page 1 of the July 1986 Record.)

CLEARINGHOUSE

FEC NAMES NEW MEMBERS TO CLEARINGHOUSE ADVISORY PANEL

On July 3, 1986, the Commission announced that the agency had appointed four individuals to the 16-member Advisory Panel of the FEC's National Clearinghouse on Election Administration. They are: Emmett H. Fremaux, Jr., Executive Director of the District of Columbia Board of Elections and Ethics; Dr. Ronald D. Michaelson, Executive Director of the Illinois State Board of Elections; Richard H. Austin, Michigan Secretary of State; and Natalie Meyer, Colorado Secretary of State.

The new members will participate in a two-day meeting of the Advisory Panel scheduled for September 21-23 in Washington, D.C.

The Advisory Panel was created in 1975 to advise the FEC's Clearinghouse on Election Administration on how to best use its resources to improve the administration of elections throughout the nation. The FEC is the only agency specifically charged by Congress to conduct research on the administation of federal elections. Current research projects include studies on: voting system standards, the Voting Accessibility Act and computerizing election administration.

PUBLIC APPEARANCES

9/4	University of Utah Department of Continuing Education Washington, D.C. Chairman Joan Aikens
9/11	Texas Medical Educational Research Foundation Austin, Texas Commissioner Lee Ann Elliott
9/12	Pennsylvania Election Officials Conference Harrisburg, Pennsylvania Chairman Joan Aikens

PUBLICATIONS

FREE PUBLICATIONS

The FEC offers the following free publications. To order, return the completed form below.

Federal Election Campaign Laws

Complete compilation of Federal election campaign laws prepared by FEC.

FEC Regulations (11 CFR)

FEC regulations; subject indexes prepared by FEC.

FEC Record

Monthly newsletter covering reporting, advisory opinions, litigation, legislation, statistics, regulations, compliance, Federal Register notices, FEC procedures and staff, and publications.

Campaign Guides

Clear explanation and illustration of election law requirements. Separate Guide for:

- Congressional Candidates and Committees
- Party Committees
- Corporations and Labor Organizations
- Nonconnected Political Committees

House and Senate Bookkeeping Manual

Recommended method of bookkeeping and reporting for Federal candidates and their committees.

FEC and Federal Election Law

Brief overview of major provisions of the Federal Election Campaign Act and the Commission's role in administering it.

Using FEC Campaign Finance Information

Brochure explaining how to gather information on financial activity of political committees and candidates by using reports and FEC's computer indexes.

Brochures

- Advisory Opinions
- Candidate Registration
- Committee Treasurers
- Contributions
- Corporate/Labor Communications
- Corporate/Labor Facilities
- Independent Expenditures
- Local Party Activity
- Political Ads and Solicitations
- Public Funding of President Elections
- State Elections & Federal Campaign Law
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- Using FEC Campaign Finance Information
- Volunteer Activity

Annual Report

Report to President and Congress, summarizing agency's activities, advisory opinions and litigation; and presenting Commission's legislative recommendations.

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REGULATIONS

BANK LOANS; PUBLIC FINANCING OF PRIMARY AND GENERAL ELECTION PRESIDENTIAL CANDIDATES: NOTICE OF PROPOSED RULEMAKING PUBLISHED

On July 24, 1986, the Commission decided to publish a notice of proposed rulemaking in the Federal Register concerning possible revisions to its regulations governing: 1) bank loans secured by federal candidates (both Congressional candidates and publicly funded Presidential candidates) and other political committees and 2) administration of the public financing program for Presidential primary and general election candidates.

Regulatory review will include the broad areas listed below. However, other proposed changes are reflected in the draft regulations. (Note that the issues presented by bank loans are governed by Title 2 of the election law and that the other issues [2-9] are governed by Title 26 of the public funding statutes.)

The public is invited to comment in writing on the issues presented in the notice. For more information, contact: Ms. Susan E. Propper, Assistant General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463 or call 376-5690 or toll free 800/424-9530. A copy of the notice may be obtained by calling 376-3120, or toll-free, 800/424-9530.

Major Issues Published for Public Comment

1. **Bank Loans.** The Commission seeks comments on what constitutes a bank loan made "in the ordinary course of business" by a publicly funded Presidential candidate, a Congressional candidate or a political committee. In particular, questions have been raised on how to determine whether a bank loan has been "made on a basis that assures repayment." The Commission therefore seeks comments on three possible interpretations of this phrase, as well as other suggested interpretations. (11 CFR 100.7(b)(11) and 100.8(b)(12))
2. **Debt Settlement and Extensions of Credit.** (Proposed 11 CFR 9035.1(a)(2) and 9035.2(a)(2))
3. **Administration of the Matching Fund Program.** (Proposed 11 CFR 9033.1(b)(5), 9033.4(b), 9036.1(b), 9036.2(a), 9036.2(b)(2), 9036.5(b) and 9036.6)
4. **Statement of Net Outstanding Campaign Obligations.** (Proposed 11 CFR 9034.5)
5. **Administrative Costs for Seeking Media Reimbursement.** (Proposed 11 CFR 9004.6(d) and 9034.6(d))
6. **Definition of a Qualified Campaign Expense.** (Proposed 11 CFR 9034.4(a) and (b))
7. **Petitions for Rehearing; Stays of Repayment Determinations and Other Repayment Issues.** (Proposed 11 CFR 9007.5 and 9038.5; 9003.2(c)(7), 9035.1(a)(2) and 9038.2(b)(2)(iii))
8. **Filing Dates.** (e.g., 11 CFR 9007.2(c)-(d), 9033.3(b), 9003.4(b))
9. **Other issues which could be addressed in the proposed rules** (e.g., the distinction for repayment purposes between expenses incurred and expenses paid).

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FEDERAL ELECTION COMMISSION

RECORD

September 1986 999 E Street NW Washington DC 20463 Volume 12, Number 9

ADVISORY OPINIONS

AO 1986-19: Primary Contribution Limit for Unopposed Candidates in States with No Primaries

Unopposed candidates in Florida and South Carolina do not run in primary elections. They may nevertheless accept primary election contributions. A separate limit applies, respectively, to the primary and general elections.

Florida and South Carolina state laws eliminate primaries for unopposed candidates in those states. Under the Act and FEC Regulations, however, candidates have a separate contribution limit for the primary regardless of whether they are unopposed and even if they are not involved in a primary election. 11 CFR 110.1(j)(2). For purposes of the primary limit, the date on which the primary was originally scheduled is considered the primary election date. 11 CFR 110.1(j)(3). Furthermore, in a recent advisory opinion, the Commission determined that an unopposed primary candidate had to file a pre-primary report. (For a summary of this opinion, AO 1986-21, see page 6 of the August 1986 Record.)

Since the advisory opinion request did not cite specific Florida or South Carolina laws which prohibit a federal candidate from accepting contributions for a primary election that is not held, the Commission did not address the issue of whether the Act preempted such laws. The Commission noted, however, that Commission Regulations specifically provide that the Act supersedes state laws with respect to limits on contributions to federal candidates and political committees. See 2 U.S.C. §453; 11 CFR 108.7(b)(3) and 112.1(b). (Date issued: July 11, 1986; Length: 3 pages)

AO 1986-22: Rebates Offerd by T.V. Station to Candidates

WREX-TV, an incorporated television station, may offer rebates (i.e., cruise tickets or their cash equivalent) to political committees who increase their advertising spending by a fixed amount over the previous year. Under the Act and FEC Regulations, goods and services provided by corporations to political committees and candidates are viewed as prohibited contributions only if they are

continued on p. 4

REPORTS

OCTOBER REPORTING SCHEDULE

The chart and paragraphs on pages 2 and 3 explain the reporting schedule for the various types of filers.

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SEP 8 1986

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OCTOBER REPORTING SCHEDULE

Quarterly Report

Due by October 15, the report should cover all activity from July 1 (or from the closing date of the last report filed in 1986) through September 30.

Pre-Primary Report

The report is due 12 days before the primary election and must be complete as of the 20th day before the election. If sent by registered or certified mail, the report must be postmarked no later than the 15th day before the election.

Last-Minute Contributions

Any contribution of $1,000 or more received by a candidate's committee between two and 20 days before an election must be reported in writing by the recipient committee within 48 hours after it is received. 11 CFR 104.5(f).

Last-Minute Independent Expenditures

Any independent expenditures aggregating $1,000 or more and made between one and 20 days before an election must be reported within 24 hours after the expenditure is made. 11 CFR 104.4(b) and (c).

Monthly Report

The monthly report must be filed by October 20. It should cover all activity from September 1 (or from the closing date of the last report filed in 1986) through September 30.

Pre-General Election Report

Due by October 23, the report should cover all activity from October 1 (or from the closing date of the last report filed in 1986) through October 15.

Change in Filing Frequency

PACs and party committees which plan to change their reporting schedule (e.g., from quarterly to monthly) must notify the Commission of their intention. The committee may notify the Commission by submitting a letter with the next report due under its current reporting schedule. A committee may not change its filing frequency more than once a year. 11 CFR 104.5(c). The FEC requests that Presidential committees also inform the Commission in writing if they decide to change their reporting schedule.

WHERE REPORTS ARE FILED

Committees must file all reports and statements simultaneously with the appropriate federal and state officials. 11 CFR 108.5.

Filing with the Federal Government

- The principal campaign committees of House candidates and committees supporting or opposing only House candidates file with the Clerk of the House, Office of Records and Registration, 1036 Longworth House Office Building, Washington, D.C. 20515. 11 CFR 104.4(c)(3) and 105.1.
- The principal campaign committees of Senate candidates and committees supporting or opposing only Senate candidates file with the Secretary of the Senate, Senate Public Records, Hart Senate Office Building, Room 232, Washington, D.C. 20510. 11 CFR 104.4(c)(2) and 105.2.
- All other committees, including the principal campaign committees of Presidential candidates, file with the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. 11 CFR 105.3 and 105.4.

Filing with State Governments

- The principal campaign committees of Congressional candidates must file a copy of every report and statement with the Secretary of State or the appropriate elections official of the state in which the candidate seeks federal office. 11 CFR 108.3.
- PACs and party committees making contributions or expenditures in connection with House and Senate races file in the state in which the candidate seeks election. The law requires a copy only of that portion of the report applicable to the candidate(s) being supported. Committees supporting Presidential candidates must file in the state(s) in which the Presidential committee and donor committee have their respective headquarters. See the June 1986 Record for the names and addresses of state offices.

HOW TO OBTAIN MORE INFORMATION

Questions and requests for forms should be addressed to the Information Services Division, 202/376-3120 or, toll free, 800/424-9530.

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Type of Filer	Report			
	Quarterly October 15	Pre-Primary[1]	Monthly October 20	Pre-General Election[2] October 23
Congressional Candidates Active in 1986 Primaries Only	X	X		
Congressional Candidates Active in the 1986 Primaries and General Elections	X	X		X
Presidential Candidate Committees: Monthly Filers[3]			X	
Presidential Candidate Committees: Quarterly Filers	X			
PAC/Party Committees: Monthly Filers[4]			X	X
PAC/Party Committees: Quarterly Filers	X	X[5]		X[6]
Connected Organizations: Communications[7]	X			X

[1] *Required of candidates active in September or October primaries. See pages 2 through 3 of the January 1986 Record for primary filing deadlines.*

[2] *The pre-general election report must be postmarked no later than October 20, 1986 (i.e., three days before the filing date). 11 CFR 104.5(c)(1)(ii) and (e).*

[3] *All Presidential committees are required to file on either a monthly or a quarterly basis during 1986. 11 CFR 104.5(b)(2).*

[4] *All corporate and labor PACs, nonconnected committees and party committees are required to file on either a monthly or a quarterly basis in 1986.*

[5] *Required only if the committee makes contributions or expenditures (including independent expenditures by a PAC) in connection with a primary which have not been previously disclosed.*

[6] *Required only if the committee makes contributions or expenditures in connection with the general election which have not been previously disclosed. Reportable activity includes independent expenditures by PACs and coordinated expenditures by party committees.*

[7] *Report required if aggregate costs for partisan, internal communications for all 1986 primaries have exceeded $2,000.*

OPINIONS

continued from p. 1

offered at less than the usual and normal charge. 11 CFR 100.7(a)(1)(iii)(A). Because WREX-TV will offer the rebates on the same terms and conditions to both political and nonpolitical advertisers, it is providing the services at the usual and normal charges. Thus, the rebates would not be considered prohibited corporate contributions.

Under the Act and FEC rules, WREX-TV will not be subject to any specific reporting requirements.

The Commission expressed no opinion on the application of the Communications Act and FCC rules to the proposed rebate plan because those issues are beyond its jurisdiction. (Date issued: July 24, 1986; Length: 2 pages)

AO 1986-28: Use of Candidate's Residence for Campaign Headquarters

Bob Ryan, a Nevada House candidate, may headquarter his campaign in his home, which he jointly owns with his wife; use of the house would not be subject to contribution limits or reporting requirements. Mr. Ryan and his wife are using their residence to provide volunteer services to his campaign, with Mrs. Ryan acting as both treasurer and bookkeeper for Mr. Ryan's principal campaign committee, the Committee to Elect Bob Ryan (the campaign).

Under Commission Regulations, the value of using the candidate's residence as a campaign headquarters is considered neither: 1) an in-kind contribution from Mr. Ryan and his wife to his campaign nor 2) a campaign expenditure for which the campaign must reimburse the Ryans. Accordingly, the value of using their residence for campaign activities is not reportable or subject to the Act's contribution limits.

Commission Regulations provide that a candidate may make unlimited campaign expenditures from personal funds, which include any shared or exclusive ownership in personal assets such as real estate holdings. 11 CFR 110.10. See AOs 1977-12 and 1984-60. Moreover, both Mr. Ryan and his wife are using their residence for volunteering their services to the campaign, and Commission Regulations specifically provide that the value of this use would not result in either a campaign contribution to or an expenditure on behalf of his campaign. 11 CFR 100.7(b)(4) and 100.8(b)(5). Commissioner Thomas E. Harris filed a dissent. (Date issued: August 8, 1986; Length: 4 pages, including dissent)

ADVISORY OPINION REQUESTS

The following chart lists recent requests for advisory opinions (AORs). The full text of each AOR is available to the public in the Commission's Office of Public Records.

AOR	Subject
1986-28	Candidate's campaign headquartered in residence jointly owned with spouse. (Date made public: July 28, 1986; Length: 1 page)
1986-29	Slate mailing sponsored by House candidate's campaign. (Date made public: August 7, 1986 ; Length: 2 pages, plus 11-page supplement)
1986-30	Congressmen's reporting requirements for use of houseboat. (Date made public: August 11, 1986; Length: 4 pages)

FEDERAL REGISTER

FEDERAL REGISTER NOTICES

Copies of notices are available in the Public Records Office.

Notice	Title
1986-3	Filing Dates for Hawaii Special Election (51 Fed. Reg. 27457, July 31, 1986)
1986-4	11 CFR Part 110: Contribution and Expenditure Limits and Prohibitions; Notice of Proposed Rulemaking (51 Fed. Reg. 27183, July 30, 1986)
1986-5	11 CFR Part 9001 et al.: Public Financing of Presidential Primary and General Election Candidates and 11 CFR 100.7(b)(11) and 100.8(b)(12): Bank Loans; Notice of Proposed Rulemaking (51 Fed. Reg. 28154, August 5, 1986)
1986-6	Dates of North Carolina Special Elections (51 Fed. Reg. 27599, August 1, 1986)

COURT CASES

ANTOSH v. FEC (Sixth Suit)

On July 15, 1986, the U.S. District Court for District of Columbia issued an order which granted the FEC's motion for summary judgment in Antosh v. FEC and which dismissed with prejudice plaintiff Edward Antosh's complaint. (Civil Action No. CA86-179) The court held that, under Article III of the Constitution, Mr. Antosh lacked standing to seek judicial review of the FEC's dismissal of his administrative complaint.

Background

Mr. Antosh filed suit against the FEC on grounds that, in two complaints, the agency's failure to order refunds of respondents' excessive contributions was contrary to law. The administrative complaints concerned excessive contributions made respectively by two labor organizations to Senators Edward Kennedy (MUR 1637) and Paul Sarbanes (MUR 1696) in 1984. The contributing committees were the Engineers Political Education Committee (EPEC), the Sheet Metal Workers International Association Political Action League (SMWIA) and the American Federation of Government Employees' Political Action Committee (AFGE). Having found that the respondents violated the law, the Commission required the labor organizations to pay civil penalties for their violations. Refunds by the candidates, however, were not required.

District Court Ruling

In ruling that Mr. Antosh lacked standing to seek judicial review of the FEC's determination, the court referred to recent decisions in two "virtually identical" suits filed by Mr. Antosh.* In those rulings, the court held that Mr. Antosh had failed to meet the eligibility requirement for standing under Article III of the Constitution. Under this requirement, an aggrieved party must " 'show that he personnally has suffered some actual or threatened injury as a result of the putatively illegal conduct of the respondent....' " Noting that the excessive contribution alleged in Mr. Antosh's suit had been made to Senatorial candidates in Massachusetts and Maryland, the court concluded that "plaintiff thus fails to satisfy the constitutional requisite of 'injury-in-fact.' "

Nor was the court persuaded by plaintiff's claim that he had suffered "injury-in-fact" in making contributions to nonconnected political committees which had, in turn, made expenditures in connection with the Sarbanes and Kennedy reelection campaigns "because he is not eligible to vote in either Massachusetts or Maryland."

ORLOSKI v. FEC (Second Suit)

On July 11, 1986, the U.S. Court of Appeals for the District of Columbia Circuit affirmed a district court decision that the Commission's dismissal of an administrative complaint filed by Mr. Richard Orloski in June 1983 was not arbitrary or capricious. The district court ruling had been handed down in December 1984 in Orloski v. FEC (Civil Action No. 85-5012).

Background

On June 11, 1983, Mr. Orloski filed a complaint with the Commission concerning a picnic sponsored by a senior citizens group to allegedly influence the election of Mr. Orloski's general election opponent, Congressman Donald L. Ritter. Mr. Orloski claimed that the picnic was a political event and thus: 1) corporate funding of the picnic constituted prohibited contributions to Mr. Ritter's reelection campaign and 2) the senior citizens group's sponsorship of the event caused it to become a political committee subject to the Act.

The Commission had dismissed a similar complaint from Mr. Orloski a year earlier. While challenging the FEC's dismissal of his first complaint in the district court, Mr. Orloski made factual allegations that were not contained in the original complaint. Accordingly, in May 1983, the district court issued an order and stipulation which dismissed the case but which allowed Mr. Orloski to file a second complaint with the FEC. The FEC considered Mr. Orloski's second complaint and, on October 4, 1983, once again found no reason to believe that the respondents named in the complaint had violated the election law. As a result of the FEC's action, Mr. Orloski decided to file a second suit against the Commission. In its December 6, 1984, ruling on Mr. Orloski's second suit, the district court found that the FEC's dismissal of Mr. Orloski's administrative complaint was not contrary to law. (For a summary of this ruling, see page 5 of the February 1985 Record.)

On January 9, 1985, Mr. Orloski appealed the district court's second ruling on his case.

Appeals Court's Ruling

To determine whether the picnic sponsored by the senior citizens group was a political event, subject to the prohibitions and requirements of

continued

**The district court's decision in one of these suits (CA No. 85-2036) was summarized on page 8 of the June 1986 Record. The court's decision in the other Antosh suit was issued on May 21, 1986. In this suit (CA No. 85-1410), Mr. Antosh claimed that the FEC had arbitrarily dismissed an administrative complaint he had filed concerning excessive contributions EPEC had made to the reelection campaign of Congressman Fernand J. St. Germain of Rhode Island.*

the election law, the FEC had applied a two-part test, i.e., 1) whether any communications at the picnic expressly advocated Representative Ritter's election and 2) whether contributions to Representative Ritter's campaign were either solicited or accepted at the picnic.

In deferring to the FEC's use of this two-part test for determining whether such events are political, the court held that:

- o "The FEC's interpretation represents a 'reasonable accommodation' between the Act's objectives and administrative exigencies."
- o "The FEC has consistently adhered to this interpretation without Congressional objection, for at least eight years."
- o "The recent history of the Act leads us to believe that Congress would approve of the line drawn by the FEC" between political and non-political events. In particular, in amending the election law in 1979, Congress did not modify the FEC's interpretation of a campaign-related event.

The court then affirmed as reasonable the FEC's use of this two-part test to dismiss Mr. Orloski's administrative complaint. While noting that one part of the test (i.e, whether contributions were solicited) was not relevant to the picnic, the court held that the respondents had "strictly adhered to the FEC's narrow guidelines" for the second part of the test. None of the communications made in conjunction with the picnic expressly advocated Congressman Ritter's reelection. Accordingly, since the FEC properly determined that the picnic was not a political event, the court also confirmed the FEC's determination that corporate funding of the picnic did not constitute prohibited contributions to Mr. Ritter's reelection effort.

Finally, the court rejected Mr. Orloski's procedural challenges to the FEC's dismissal of his complaint. Specifically, Mr. Orloski claimed that, after giving the respondents an opportunity to reply to the allegation in his administrative complaint, the FEC should either have: 1) allowed Mr. Orloski to answer the respondents' replies or 2) made its "reason to believe" determination solely on the basis of Mr. Orloski's allegations.

The court rejected these procedural challenges on grounds that:

- o "Section 437g(a)(1) requires the FEC to notify parties charged in a complaint and to give them the opportunity to respond";
- o Since none of the facts of the case were in dispute, the FEC's conclusion would not have been affected by Mr. Orloski's replies; and
- o Finally, before filing his first district court suit, Mr. Orloski did, in fact, have an opportunity to respond to the respondent's replies concerning the allegations in his administrative complaint.

FEC v. DRAMESI FOR CONGRESS COMMITTEE

On July 25, 1986, the U.S. District Court for the District of New Jersey granted the FEC's motion for summary judgment in FEC v. John A. Dramesi for Congress Committee (Civil Action No. 85-4039). The court found that the John A. Dramesi for Congress Committee's treasurer, Russell E. Paul, had violated 2 U.S.C. §441a(f) by knowingly accepting an excessive contribution from the New Jersey Republican State Committee (the State Committee) and ordered Mr. Paul to pay a $5,000 civil penalty to the U.S. Treasurer.* The court had previously entered a $5,000 default judgment against the Dramesi Committee. (For a summary of the court's May 2, 1986, ruling, see page 7 of the July 1986 Record.)

Background

In 1982, when the State Committee made a $5,000 contribution to the Dramesi Committee, the State Committee had not achieved multicandidate status because it had not yet satisfied the six-month registration requirement.** Consequently, the State Committee was only eligible to make a contribution of up to $1,000 per election to each Republican Congressional candidate in New Jersey, and the Dramesi Committee could legally receive only $1,000 for the primary election.

On learning of the State Committee's excessive contributions to Republican House candidates, the FEC initiated enforcement proceedings against the State Committee. When the Commission failed to reach a settlement with the Dramesi Committee, the agency filed a suit against the Committee and its treasurer. (For a summary of the FEC's complaint, see page 4 of the November 1985 Record.)

The Court's Ruling

The court observed that, under the FEC Regulations, the treasurer of a political committee

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**On June 16, 1986, the U.S. District Court for the District of Columbia found that another New Jersey House incumbent campaigning for reelection in 1982 had not knowingly accepted an excessive contribution from the New Jersey Republican State Committee. For a summary of that suit (FEC v. Re-Elect Hollenbeck to Congress Committee; Civil Action No. 85-2239), see page 7 of the August 1986 Record.*

***Multicandidate committees may contribute up to $5,000 per election to a candidate's authorized committee(s) or any other political committee. To achieve multicandidate status, a committee must have more than 50 contributors, have been registered for at least six months and, with the exception of state party committee, have made contributions to five or more candidates for federal office. 2 U.S.C. section 441a(a)(4); 11 CFR 100.5(e)(3).*

has to " 'make his or her best efforts to determine the legality of a contribution.' "* The court therefore found that "Mr. Paul...had a duty to determine [the contribution's] propriety. Instead, he merely assumed from the source of the contribution that it was legal."

Nor did the court find any merit to defendant's contention that he had no way of knowing the contribution was illegal. The court noted that the defendant could have consulted the Index of Multicandidate Political Committees, an "exhaustive list of such eligible [multicandidate] committees, compiled by the FEC, [which] was readily available to the defendants."

The court therefore found that "Mr. Paul, as Treasurer of the Dramesi Committee, acted intentionally in accepting the $5,000 contribution in question, and was fully aware of the facts rendering his conduct unlawful." Accordingly, the court ruled that defendant "knowingly accepted" the State Committee's excessive contribution, in violation of 2 U.S.C. §441a(f).

FEC v. WALSH FOR CONGRESS COMMITTEE

On July 28, 1986, the U.S. District Court for the Eastern District of Michigan, Southern Division, issued an order requiring the Kirk Walsh for Congress Committee (the Committee) and its treasurer, Kirk Walsh, to:

- o Provide the FEC with accurate reports of campaign finance activity from 1980 through 1986; and
- o Pay a $5,000 civil penalty to the U.S. Treasurer, in addition to the $5,000 civil penalty the court had assessed against the Committee in September 1985.

The court also ordered the Committee and Mr. Walsh to comply with its order by August 28, 1986. (Civil Action No. CA84-CV-9802) In the event that the Committee failed to meet the deadline, the court would assess a fine of $200 per day, beginning August 15, 1986, and continuing until the defendants had fully complied with the court's order.

The court issued its order after the Committee and Mr. Walsh had failed to comply with the Court's September 20, 1985, contempt order. This contempt order resulted from the defendants' failure to comply with a default judgment entered against them in April 1985. For a summary of these district court actions, see page 4 of the November 1985 Record.

FEC v. JIMMY CARTER COMMITTEE FOR A GREATER AMERICA

On July 21, 1986, the U.S. District Court for the Northern District of Georgia approved a consent order between the Commission and the Jimmy Carter Committee for a Greater America, a nonconnected political committee, and the Committee's treasurer, Chip Carter. The consent order provides that defendants violated section 434(a)(4)(A)(i) and (iii) of the election law during the 1983-84 election cycle by failing to meet the filing deadline for 1984 post-general election and year-end reports.

Within 30 days of filing the consent order, the defendants agreed to pay a $250 civil penalty to the U.S. Treasurer.

The consent order concluded a suit filed by the FEC on April 7, 1986 (CA No. C86-774A).

NEW LITIGATION

FEC v. Campaign Resource Technologies, Inc.

During the 1983-84 Presidential election cycle, the Bergland for President Committee (the Committee), the principal campaign committee for David Bergland's 1984 Presidential campaign, contracted with Campaign Resources Technologies, Inc. (CRT) for certain campaign services. This company, in turn, subcontracted certain campaign services to John Kaur, who was doing business as Digitgraph Computer Systems Company (Digitgraph).

The FEC asks the court to:

- o Declare that Campaign Resource Technologies, Inc. and John Kaur violated section 432(b) of the election law by failing to forward to the Committee's treasurer, within 10 days of their receipt, approximately $6,000 in campaign contribution checks received by CRT and Digitgraph on behalf of the Committee; and
- o Assess a civil penalty against each defendant amounting to the greater of $5,000 or 100 percent of the total amount involved in the alleged violation.

U.S. District Court for the District of Arizona, Tucson Division, CA No. Civ. 86-448 TUC ACM, August 7, 1986.

Democratic Congressional Campaign Committee v. FEC (Second Suit)

The Democratic Congressional Campaign Committee (DCCC), a national committee of the Democratic Party, seeks the court's review of an FEC determination dismissing an administrative complaint which DCCC had filed with the agency on December 20, 1985.

The DCCC claims that, in the administrative complaint, it had asked the FEC to find that the National Republican Congressional Committee

continued

**See 11 CFR 103.3(b)(1).*

(NRCC), a national committee of the Republican Party, had violated section 441a(d) of the election law by failing to allocate to its coordinated spending limits certain media expenditures critical of Democratic Congressman Fernand St. Germain. (Congressman St. Germain was campaigning for reelection in Rhode Island.)

The DCCC asks the court to:

- o Declare that the FEC's dismissal of its administrative complaint was contrary to law; and
- o Direct the FEC to initiate expedited enforcement proceedings concerning the allegations contained in DCCC's administrative complaint.

U.S. District Court for the District of Columbia, Civil Action No. 86-2075, July 29, 1986.

Ameritrust Company National Association v. FEC

The Ameritrust Company National Association, a national banking association, and three other national banking associations (BancOhio National Bank; Bank One, Columbus, NA; and Huntington National Bank) state that they made campaign loans to the John Glenn Presidential Committee, Inc. (the Committee), Senator Glenn's principal campaign committee for his publicly funded Presidential primary campaign in 1984.

In a suit seeking expedited review of their case, plaintiffs ask the court to declare that the loans were made to the Committee on a basis which assured repayment.

U.S. District Court for the Southern District of Ohio, Eastern Division, CA No. C2-86-0841, July 14, 1986.

STATISTICS

1983-84 PARTY ACTIVITY DECLINES

The financial activity of both major parties during the current election cycle has declined, thus reversing the steady increase in each major party's activity over the past four election cycles. The activity of all Democratic and Republican party committees registered with the FEC is depicted in the summary chart below.

As an exception to the parties' overall decline in activity during the current cycle, the activity of several national party committees increased slightly.

More detailed information on the financial activity of the major parties may be obtained from the FEC's August 10, 1986, press release, which is available from the FEC's Public Records Office. Call: 376-3140 locally or, toll free, 800/424-9530.

MAJOR PARTY ACTIVITY
January 1985 through June 30, 1986
(figures in millions of dollars)

Election Cycle	1977-78	1979-80	1981-82	1983-84	1985-86
Democratic Party Committees					
Raised	$ 14.40	$ 17.50	$ 24.80	$ 59.70	$ 35.10
Spent	$ 13.60	$ 15.50	$ 24.20	$ 52.10	$ 33.60
Cash-on-Hand	$ 2.00	$ 2.70	$ 3.00	$ 9.80	$ 3.20
Republican Party Committees					
Raised	$ 49.60	$ 96.10	$161.20	$207.70	$186.10
Spent	$ 42.40	$ 83.10	$134.10	$171.10	$158.50
Cash-on-Hand	$ 8.50	$ 17.90	$ 33.80	$ 44.60	$ 32.30

PUBLICATIONS

FREE PUBLICATIONS

The FEC offers the following free publications. To order, return the completed form below.

Federal Election Campaign Laws

Complete compilation of Federal election campaign laws prepared by FEC.

FEC Regulations (11 CFR)

FEC regulations; subject indexes prepared by FEC.

FEC Record

Monthly newsletter covering reporting, advisory opinions, litigation, legislation, statistics, regulations, compliance, Federal Register notices, FEC procedures and staff, and publications.

Campaign Guides

Clear explanation and illustration of election law requirements. Separate Guide for:

Congressional Candidates and Committees
Party Committees
Corporations and Labor Organizations
Nonconnected Political Committees

House and Senate Bookkeeping Manual

Recommended method of bookkeeping and reporting for Federal candidates and their committees.

FEC and Federal Election Law

Brief overview of major provisions of the Federal Election Campaign Act and the Commission's role in administering it.

Using FEC Campaign Finance Information

Brochure explaining how to gather information on financial activity of political committees and candidates by using reports and FEC's computer indexes.

Brochures

Advisory Opinions
Candidate Registration
Committee Treasurers
Contributions
Corporate/Labor Communications
Corporate/Labor Facilities
Independent Expenditures
Local Party Activity
Political Ads and Solicitations
Public Funding of President Elections
State Elections & Federal Campaign Law
Trade Associations
Using FEC Campaign Finance Information
Volunteer Activity

Annual Report

Report to President and Congress, summarizing agency's activities, advisory opinions and litigation; and presenting Commission's legislative recommendations.

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	Federal Election Campaign Laws		Bookkeeping Manual for Candidates
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	Advisory Opinions		Local Party Activity
	Candidate Registration		Political Ads and Solicitations
	Committee Treasurers		Public Funding of Presidential Elections
	Contributions		State Elections & Federal Campaign Law
	Corporate/Labor Communications		Trade Associations
	Corporate/Labor Facilities		Using FEC Campaign Finance Information
	FEC and Federal Election Law		Volunteer Activity
	Independent Expenditures		

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COMPLIANCE

FEC PUBLISHES NONFILERS

During August, the Commission published the names of two House campaigns (one in Georgia and one in Tennessee) that had failed to file pre-primary reports. The Georgia campaign had failed to file a report for the Congressional primary held on August 12. The Tennessee campaign had failed to file its pre-primary report for the August 7 Congressional primary.

The election law requires the agency to publish the names of nonfiling candidates. Compliance actions against nonfilers are decided on a case-by-case basis. The law gives the Commission broad authority to initiate enforcement actions resulting from infractions of the law, including civil court enforcement and imposition of civil penalties.

CHANGE OF ADDRESS

Registered political committees are automatically sent the Record. Any change of address by a registered committee must, by law, be made in writing as an amendment to FEC Form 1 (Statement of Organization) and filed with the Clerk of the House, the Secretary of the Senate, or the FEC, as appropriate.

Record subscribers (who are not political committees), when calling or mailing in a change of address, are asked to provide the following information:

1. Name of person to whom the Record is sent.
2. Old address.
3. New address.
4. Subscription number. The subscription number is located in the upper left hand corner of the mailing label. It consists of three letters and five numbers. Without this number, there is no guarantee that your subscription can be located on the computer.

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FEDERAL ELECTION COMMISSION

RECORD

October 1986 999 E Street NW Washington DC 20463 Volume 12, Number 10

REPORTS

DECEMBER REPORTING SCHEDULE

The political committees listed in the chart below are required to file a post-general election report in December.* (Note that, following the post-election report, the next report required of all political committees will be the year-end report, due January 31, 1987.) To obtain more information, contact the Information Services Division, 999 E Street, N.W., Washington, D.C. 20463; or call 202/376-3120 or toll free 800/424-9530.

Type of Filer	Post-General Report (December 4)
1986 Congressional Candidate Committees Active in the General Election	X
PAC/Party Committees: Monthly Filers**	X
PAC/Party Committees: Quarterly Filers	X

Post-General Election Reports: Quarterly Filers

The post-general election report is due December 4 and must cover activity from the close of books of the last report filed, or the date of registration (whichever is later), through November 24, 1986. Committees that filed a statement of last-minute activity not disclosed on the pre-general election report (i.e., contributions received or independent expenditures made just before the general election) must disclose this activity on the post-general election report.

If sent by registered or certified mail, the post-general election report must be postmarked no later than December 4. Note that all PACs and party committees must file this report, regardless of their election activity.

Post-General Election Report: Monthly Filers

In lieu of the November monthly report, otherwise due in December, monthly filers must file a post-general election report, due by December 4. (See reporting requirements above.)

WHERE REPORTS ARE FILED

Committees must file all reports and statements simultaneously with the appropriate federal and state officials. 11 CFR 108.5.

Filing with the Federal Government

o The principal campaign committees of House candidates and committees supporting or opposing only House candidates file with the Clerk of the House, Office of Records and Registration, 1036 Longworth House Office Building, Washington, D.C. 20515. 11 CFR 104.4(c)(3) and 105.1.

continued on p. 2

Note that information concerning the pre-general election report was published in the September issue of the Record.

**PACs and party committees that file on a monthly schedule file the post-general election report in lieu of the November monthly report, otherwise due by December 20.*

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- The principal campaign committees of Senate candidates and committees supporting or opposing only Senate candidates file with the Secretary of the Senate, Senate Public Records, Hart Senate Office Building, Room 232, Washington, D.C. 20510. 11 CFR 104.4(c)(2) and 105.2.
- All other committees file with the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. 11 CFR 105.3 and 105.4.

Filing with State Governments

- The principal campaign committees of Congressional candidates must file a copy of every report and statement with the Secretary of State or the appropriate elections official of the state in which the candidate seeks federal office. 11 CFR 108.3.
- PACs and party committees making contributions or expenditures in connection with House and Senate races file in the state in which the candidate seeks election. The law requires a copy only of that portion of the report applicable to the candidate(s) being supported.

NORTH CAROLINA SPECIAL ELECTIONS

On November 4, the date of the general election, North Carolina will also hold two special elections. One special election* will be held to fill the remainder of deceased Senator John East's term, which expires on January 3, 1987. A second special election will be held in North Carolina's 10th Congressional District to fill the remainder of Rep. James Broyhill's term, which also expires on January 3. (Rep. Broyhill vacated his House seat when Governor Martin appointed him to serve in the late Senator East's post until the office could be filled through a special election.)

Political committees authorized by candidates who are participating in either special election must file pre- and post-election reports for the election. (See the reporting schedule below.) Note that candidate committees must report last-minute contributions of $1,000 or more received between two and 20 days before either election. These contributions must be reported within 48 hours of their receipt.

If a candidate involved in both a special election and the regular general election has not authorized a separate committee for the special election, the candidate's committee may file one pre-election report and one post-election report covering activity for both elections. The committee should clearly indicate on each report that it covers activity for both elections. (If, however, a candidate has authorized a separate committee for a special election, this committee must file separate reports of its activity.)

All other political committees which support candidates in these special elections (except monthly filers) must also follow the special elections reporting schedule.* Monthly filers file pre- and post-general election reports in lieu of November and December monthly reports.

Reporting Schedule
For North Carolina Special Elections

Report	Period Covered	Mailing Date	Filing Date
October Quarterly	7/1**-9/30	10/15/86	10/15/86
Pre-election	10/1-10/15	10/20/86	10/23/86
Post-election	10/16-11/24	12/ 4/86	12/4/86

The FEC will send notices on reporting requirements and filing dates to individuals known to be actively pursuing election to these seats. All other committees supporting candidates in the special elections should contact the Commission for forms and more information on required reports. Call 202/376-3120 or, toll free, 800/424-9530.

The Democratic Senatorial Campaign Committee has requested an opinion concerning candidates running simultaneously in the special and regular elections for the Senate seat. For a summary of AOR 1986-31, see page 3.

A pre-election report is required only if activity has not been previously disclosed. 11 CFR 104.5(c)(1)(ii).

**Committees should use this date or the date of candidate status, whichever is later.*

The Record is published by the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. Commissioners are: Joan D. Aikens, Chairman; John Warren McGarry, Vice Chairman; Lee Ann Elliott; Danny Lee McDonald; Thomas E. Harris; Thomas J. Josefiak; Jo-Anne L. Coe, Secretary of the Senate, Ex Officio; Benjamin J. Guthrie, Clerk of the House of Representatives, Ex Officio. For more information, call 202/376-3120 or toll-free 800/424-9530.

ADVISORY OPINIONS

ADVISORY OPINION REQUESTS

The following chart lists recent requests for advisory opinions (AORs). The full text of each AOR is available to the public in the Commission's Office of Public Records.

AOR	Subject
1986-31	Contribution and party spending limits applicable to candidate running simultaneously in special and regular elections for Senate seat. (Date made public: August 20, 1986; Length: 13 pages)
1986-32	Amendment of PAC's by-laws to permit contributor refunds and reimbursement of administrative expenses to parent organization. (Date made public: August 29, 1986; Length: 3 pages, plus 6-page supplement)
1986-33	Campaign depository shared by three affiliated PACs. (Date made public: September 4, 1986; Length: 2 pages, plus 5-page supplement)
1986-34	Control and operation of insolvent bank's PAC by federally chartered corporation. (Date made public: September 4, 1986; Length: 3 pages, plus 23-page supplement)
1986-35	Free broadcast time offered by t.v. station to Congressional candidates. (Date made public: September15, 1986; Length: 1 page, plus 2-page supplement)

ADVISORY OPINIONS: SUMMARIES

An Advisory Opinion (AO) issued by the Commission provides guidance with regard to the specific situation described in the AOR. Any qualified person who has requested an AO and acts in accordance with the opinion will not be subject to any sanctions under the Act. Other persons may rely on the opinion if they are involved in a specific activity which is indistinguishable in all material aspects from the activity discussed in the AO. Those seeking guidance for their own activity, however, should consult the full text of an AO and not rely only on the summary given here.

AO 1986-23: Trade Association's Game [illegible] to Congressional Offices at Discount Rate

The National Association of Manufacturers (NAM), an incorporated trade association, may offer a discount rate to Congressional offices that purchase a computerized game which simulates a Congressman's first term and reelection campaign. (The game was developed jointly by NAM and Claremont College.) Since the purpose of the game is to educate players rather than to influence federal elections, the discount rate will not result in prohibited corporate contributions from NAM to Congressional purchasers, provided:

- The game is not altered to convey a partisan or electioneering message; and
- The game is made available to all federal candidates on a nondiscriminatory basis, that is, the same discount rate is offered to incumbents, challengers and candidates in open seat races.

(Date issued: August 15, 1986; Length: 5 pages)

AO 1986-24: PAC Contributions by Testamentary Bequest

Political Action for Candidate Election (PACE), the separate segregated fund of the National Association of Social Workers (NASW), may accept a bequest of approximately $70,000 to be distributed to its general account in annual increments of $5,000. The bequest was contained in the will of a deceased member of NASW. Since the deceased member's estate is considered his alter ego for purposes of making contributions to PACE, the estate is subject to the same contribution limits and prohibitions that the member would have been. This means that the estate may contribute no more than $5,000 of the bequest to PACE each year.

Since PACE plans to handle the bequest according to the procedures approved by the Commission in Advisory Opinion 1983-13,* PACE may establish a special interest-bearing escrow account for the purpose of holding the balance of the bequest and distributing it to PACE's general account in annual increments, provided:

- PACE does not pledge, assign or otherwise obligate funds in the escrow account to augment other PACE or NASW funds; and
- PACE follows the reporting procedures described in AO 1983-13.

The Commission cautioned that its conclusions in this opinion applied only to the specific issues raised in the request, namely, contributions made by specific testamentary bequest and distributed through the decedent's estate.

continued

*AO 1983-13 was summarized on page 3 of the November 1983 Record.

The Commission noted that, since PACE had not asked for an opinion on other permissible methods of handling the bequest, the agency had not addressed such methods. Commissioners Thomas E. Harris and Thomas J. Josefiak filed separate dissents. (Date issued: August 15, 1986; Length: 8 pages, including dissents)

AO 1986-25: Corporation's Use of FEC Contributor Information

Under a provision of the election law restricting the sale or commercial use of information contained in FEC reports, Public Data Access (PDA), a for-profit corporation, is prohibited from copying and selling lists of contribution information derived from FEC reports. PDA might, however, use FEC contributor information in its computer data base for conducting joint research projects with nonprofit organizations, provided this research did not involve the sale or use of the information for the purpose of soliciting contributions or for other commercial purposes. The Commission noted, however, that it had not approved a specific research project because PDA had not described one in its advisory opinion request.

PDA's Proposed Use of FEC Information

PDA gleaned contributor information from the reports filed by 1983-84 Congressional candidate committees to compile 1,135 separate list packages, which categorize individual contributors by Congressional district and by employer.* (PDA planned to make the material available in book form as well.) Although the lists omit the street addresses of contributors, they include the other contributor information available from FEC reports: the contributor's name, city and zip code and the amount of his/her contribution(s).

PDA states that its purpose in marketing the lists would be to promote knowledge of, and research into, patterns of political giving. Consequently, PDA would include a warning against commercial use of the information on each page of the lists. Moreover, the lists would be sold at prices that allowed recovery of PDA's investment costs but that were affordable to nonprofit corporations.

Commission Interpretation: Use Prohibited

To protect contributors from being victimized by list brokering, the Act and FEC Regulations specifically prohibit contributor information contained in FEC reports from being sold or used for commercial purposes. 2 U.S.C. §438(a)(4) and 11 CFR 104.15(c); AOs 1981-5 and 1981-38. This prohibition does not, however, prohibit the publication of contributor information in newspapers, magazines, books, editorials, commentaries and other similar communications, provided the information is merely incident to the sale of the publications.

Despite PDA's statements concerning the research purpose of the lists and its intention to include a warning against commercial use of the information, the Commission viewed PDA's marketing plan as a prohibited commercial use of FEC contributor information for the following reasons:

- o The lists would have a commercial value. Even though they omit street addresses, the lists are formatted in a way that is essentially indistinguishable from those marketed by list brokers for solicitations and commercial purposes.
- o PDA's use of contributor information would not be merely incident to its sales but would be the primary focus of PDA's activities.
- o Even though PDA states that the primary market for the lists would be researchers and journalists, PDA would nevertheless sell the lists to "all who wish to buy them."
- o Since PDA is a for-profit corporation, sales of its lists would presumably be made for commercial purposes. (This presumption is not negated by PDA's statement that it planned to sell the lists at or near cost.)

(Date issued: August 15, 1986; Length: 5 pages)

AO 1986-26: Presidential Candidate Appearances at Convention

The Commission cannot give advance approval to the National Conservative Foundation's (the Foundation's) proposed method for financing a National Conservative Convention because the Foundation's advisory opinion request lacked sufficient details on the convention. Under the Act and FEC Regulations, the Commission may not issue advisory opinions on hypothetical situations. See 11 CFR 112.1(b) and (c).

The Foundation is a nonprofit corporation which has been established to sponsor public forums on domestic and foreign policy issues. It plans to conduct a national convention open to the general public for the purpose of adopting policy positions and a set of "conservative" principles. The Foundation noted in its advisory opinion request that funding for its proposed convention might come from sources which are prohibited under the Act, such as government contractors, corporations, foreign nationals and the Foundation itself. See 2 U.S.C. §§441b, c and e. Furthermore, by the time of the convention in 1987, some of the participants might be potential or qualified 1988 Presidential candidates. The Foundation stated, however, that during the convention: no contributions would be solicited to the candidates' campaigns; their candidacies would not be

*The information for the 1983-84 cycle is not currently available from the FEC, due to recent cuts in operations.

expressly advocated; and the convention program would not be structured to promote one candidate over another.

The Commission concluded that:

- The request lacked sufficient facts for the agency to determine that the candidates' appearances at the covention would not be campaign-related activities subject to the Act. The Commission decided in several previous advisory opinions that the absence of express advocacy or solicitations at an event did not preclude the agency from determining in particular circumstances that a candidate's appearance was campaign-related. See, for example, AOs 1980-22, 1982-16 and 1984-13.
- The Foundation's proposed convention would not qualify as a nonpartisan activity (for example, a voter guide or a registration drive) directed to the general public. (See the Commission's regulations at 11 CFR 114.4(b)(5) and (c)). Similarly, as planned, the convention would not be structured as a "candidate debate," an activity which, under the Regulations, may be conducted by qualified organizations that do not support, endorse or oppose political candidates or parties (i.e., 501(c)(3) or (c)(4) organizations). 11 CFR 110.13(a) and 114.4(e).

The Commission did not express an opinion on the Foundation's eligilibity for tax-exempt status under the Internal Revenue Code or on other tax issues because they are beyond its jurisdiction. (Date issued: August 21, 1986; Length: 6 pages)

AO 1986-27 Consolidated Report Filed by Union's Federal and Nonfederal PACs with State Elections Office

The separate segregated fund of Teamsters Local 959, Alaska Labor Independent Voters Education (A.L.I.V.E.), may not be required to file a consolidated report (covering all the transactions of both its federal and state committees) with the Alaska Public Offices Commission (the Alaska Commission). Alaska state law requires a report that would cover activity of both A.L.I.V.E.'s federal account registered with the FEC (A.L.I.V.E. Voluntary) and its nonfederal account registered with the Alaska Commission (A.L.I.V.E. Regular). The Federal Election Campaign Act (the Act) preempts the filing of a consolidated report because Alaska's requirements for reporting and itemization exceed the disclosure requirements of the Act. 2 U.S.C. §453; 11 CFR 108.7(b). A.L.I.V.E. may, however, file the consolidated report as a matter of administrative convenience. 11 CFR 104.3(a)(4)(i).

The Act does not, however, preempt the Alaska Commission from requiring A.L.I.V.E. Regular to report, in accordance with state law: 1) the original source of fundraising proceeds transferred from the federal account to the nonfederal account and 2) any fundraising expenses allocable to the nonfederal account.

The Alaska Commission's Consolidated Reporting Requirement

The federal account conducts raffle fundraisers each year for both accounts and subsequently transfers a portion of the fundraising proceeds to the nonfederal account. These transactions have been properly reported by both accounts with their respective filing offices. The Alaska Commission requires a consolidated report because it believes that, in conducting the fundraisers, the federal account has acted as the fundraising arm of the nonfederal account.

While A.L.I.V.E. may not be required to file the consolidated report, the Act does not prohibit it from doing so. Even though a consolidated report might include both treasury monies from Teamsters Local 959 and contributions to Federal candidates, the consolidation of this information for state reporting purposes would not violate the Act, provided A.L.I.V.E.:

- Maintained the federal account as a separate political committee (11 CFR 102.5(a)); and
- Made contributions to federal candidates only from the federal account.

The consolidated report would not affect the federal account's registration or organization or its other requirements as a separate federal committee under the Act. If A.L.I.V.E. decides to file a consolidated report with the Alaska Commission, however, it must nevertheless file, under the Act, a separate report of the federal account's activity with the appropriate state official. 11 CFR 108.3. Commissioner Thomas E. Harris filed a dissent. (Date issued: August 21, 1986; Length: 6 pages, including dissent)

AO 1986-30: Candidates' Expenses for Houseboat Tour Reimbursed to Corporate Sponsors

Congressman David Martin, along with other federal and state officeholders in New York, plans to participate in a houseboat tour of the state's waterways, which is designed to promote both the officeholders' reelection efforts and state tourism. The corporations which own and operate the houseboat do not plan to charge the officeholders any rental or operation fees.

Under FEC Regulations, the travel expenses associated with the tour constitute reportable campaign expenditures, which must be reimbursed in a commercially reasonable time. 11 CFR 106.3; 114.9(e)(2). These travel expenses must be allocated among the federal candidates in proportion to the benefit each candidate expects to derive from the tour. 11 CFR 106.1(a). Accordingly, in addition to reimbursing the houseboat's manufacturer and the manufacturer's sales representative

continued

for David Martin's share of the houseboat's maintenance and operating costs during the tour, Congressman Martin's reelection campaign must also reimburse the corporations for his share of: 1) the ususal and normal rental fees for using the boat and 2) the fee for the pilot's services.

The procedures for reporting Congressman Martin's travel expenses will depend on how the candidates decide to allocate the expenses.

- If each candidate pays his or her share of the travel expenses, Mr. Martin's campaign must report his share of the expenses as an operating expenditure. 11 CFR 104.3(b)(2) and (4).
- If Congressman Martin also pays the expenses of other federal candidates participating in the tour, his campaign should report the additional payments as in-kind contributions to the candidates' campaigns. The recipient campaigns, in turn, would report the payments as both contributions and expenditures. 11 CFR 106.1(b); 104.3(b)(2) and (4); 104.13(a).
- Finally, if Congressman Martin's campaign pays the travel expenses allocable to state and local officeholders, the payments must be reported by his campaign as either: 1) other disbursements or 2) operating expenditures, if the payments are made to influence Congressman Martin's reelection. 11 CFR 104.3(b)(2) and (4).

(Date issued: August 21, 1986; Length: 3 pages)

COMPLIANCE

FEC PUBLISHES NONFILERS

During August and September, the Commission published the names of House and Senate campaigns that had failed to file pre-election reports for Congressional elections held in September.

On August 29, 1986, the Commission published the names of two House campaigns (one in Georgia and one in Florida) that had failed to file pre-election reports for Congressional primaries held on September 2.

On September 5, the Commission published the names of two Maryland House campaigns, three New York campaigns (two House and one Senate) and a Rhode Island House campaign that had failed to file their respective pre-election reports for primary elections held in those states on September 9.

The election law requires the agency to publish the names of nonfiling candidates. Compliance actions against nonfilers are decided on a case-by-case basis. The law gives the Commission broad authority to initiate enforcement actions resulting from infractions of the law, including civil enforcement and imposition of civil penalties.

COURT CASES

SPANNAUS v. FEC

On August 26, 1986, the U.S. District Court for the Southern District of New York granted the FEC's motion for summary judgment in Spannaus v. FEC (Civil Action No. 85-Civ-0404(LLS)). The Court dismissed plaintiffs' suit with prejudice. It held that Lyndon LaRouche's campaign committee for his 1984 Presidential primary and the campaign's treasurer, Edward W. Spannaus, had "failed to make even a preliminary showing of bad faith on the part of the Commission [in conducting investigations of the campaign's potential violations of the election law] or to allege facts sufficient to show an infringement of their First Amendment rights...."

Background

In a suit filed with the district court on January 16, 1985, plaintiffs asked the court to make the following declarations:

- FEC investigations of the LaRouche Campaign's 1984 campaign activities were "motivated solely by bad faith" and were "an abuse of process," in violation of federal laws and the U.S. Constitution.
- The FEC was "selectively and discriminatorily enforcing the election laws resulting in violation of the plaintiffs' rights of equal protection."
- In seeking information from contributors to The LaRouche Campaign concerning certain credit card contributions, the FEC had abridged First Amendment rights by creating a chilling effect on: 1) the contributors' participation in the electoral process and 2) The LaRouche Campaign's ability to recruit volunteers.
- The FEC had violated the confidentiality provisions of the federal election laws.

District Court's Ruling

The court affirmed the FEC's claim that, in initiating investigations against The LaRouche Campaign, the agency had followed procedures established by the Federal Election Campaign Act and FEC Regulations and had undertaken each investigation "for legitimate purposes." Although plaintiffs asserted that the FEC had failed to respond to The LaRouche Campaign's inquiries concerning the agency's investigations into the campaign's activities, the court noted that plaintiffs had "failed to make even a preliminary showing of bad faith and accordingly are not entitled to discovery into the FEC's motives and activities."

With regard to alleged discriminatory enforcement of the election law, the court held

that "plaintiffs have not alleged facts demonstrating unequal treatment under the Act."

Similarly, the court found no merit to plaintiffs' claim that their First Amendment rights had been abridged. The court concluded that "to the extent that the Commission's investigation has 'chilled' any volunteer activities on the part of contributors...that chill does not under the circumstances rise to a constitutional claim."

ANTOSH v. FEC (Fourth Suit)

On August 13, 1986, the U.S. Court of Appeals for the District of Columbia Circuit granted Mr. James E. Antosh's motion to dismiss his appeal of an April 1986 decision handed down by the U.S. District Court for the District of Columbia in Antosh v. FEC (Civil Action No. 85-2036). For a summary of the district court's decision, see page 8 of the June 1986 Record.

NEW LITIGATION

National Rifle Association of America v. FEC (Second Suit)

Pursuant to 2 U.S.C. §437g(a)(3), the National Rifle Association of America (NRA), an incorporated membership organization, asks the district court to review the FEC's decision dismissing an administrative complaint NRA had filed with the Commission against another incorporated membership organization, Handgun Control, Inc. (HCI). In the complaint, NRA alleged, among other things, that HCI violated section 441b(b)(4)(A)(i) of the election law by soliciting contributions to its separate segregated fund from individuals who were not HCI members.* NRA therefore asks the court to:

- o Declare that the FEC's dismissal of NRA's complaint against HCI for this violation was contrary to law; and
- o Issue an order directing the FEC to initiate enforcement proceedings against HCI within 30 days of the order.

U.S. District Court for the District of Columbia, Civil Action No. 86-2285, August 19, 1986.

FEC v. Louis Rocha, Jr.

On March 31, 1986, the Commission entered into a conciliation agreement with Louis Rocha, Jr., in which Mr. Rocha agreed to pay a $3,000 civil penalty for knowingly accepting contributions made by one person in the name of another person. See 2 U.S.C. §441f. Although Mr. Rocha agreed to pay the penalty in 12 equal monthly installments, he has not yet paid any portion of the penalty.

The FEC therefore asks the court to:

- o Declare that Mr. Rocha violated the terms of the conciliation agreement;
- o Order him to comply with these terms;
- o Assess a $5,000 civil penalty against him for violating the agreement; and
- o Permanently enjoin Mr. Rocha from further violations of the election law.

U.S. District Court for the Middle District of Florida, Civil Action No. 86-1203-CIV-T-10C, August 20, 1986.

*An incorporated membership organization may only solicit contributions to its separate segregated fund from its noncorporate members, its own executive and administrative personnel and the families of both.

CLEARINGHOUSE

FEC CLEARINGHOUSE PANELS MEET IN WASHINGTON

On September 22 and 23, 1986, two panels of the FEC's National Clearinghouse on Election Administration met in Washington: the Clearinghouse's Advisory Panel and its Advisory Committee on Voting System Standards. (The panels are composed of state and local election officials, some of whom serve on both panels.)

In joint sessions held during the two-day meeting, the panels' members discussed several topics:

- o The Clearinghouse's current and projected activities.
- o The Voting System Standards Project mandated by Congress. The Clearinghouse director presented a proposed plan to implement voluntary standards for voting equipment.
- o Proposed software standards for voting equipment.
- o The Voter Accessibility for Elderly and Handicapped Act (Pub. L. 98-435). Discussion focused on the current status of making polling places accessible to handicapped and elderly individuals.
- o Recent case law pertaining to federal and state elections.
- o Significant election legislation, including laws for regional primaries and the Uniform and Overseas Citizens Absentee Voting Act.
- o A general model for a computerized election management system.
- o Computer security in elections.
- o Development of regulations to govern direct electronic voting systems.
- o Management guidelines for election administrators.

STATISTICS

ACTIVITY OF 1985-86 CONGRESSIONAL CAMPAIGNS INCREASES

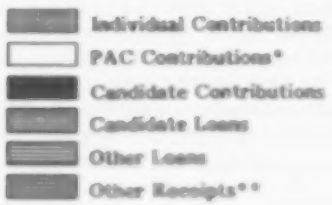
By the end of June, with just over half of the 1986 primaries completed, House and Senate candidates had spent $192 million on their campaigns, an 18 percent increase over spending by Congressional candidates during the same 18-month period in the 1983-84 election cycle.

From January 1985 through June 1986, House and Senate candidates raised $262 million, a 23 percent increase over fundraising by their counterparts during the previous election cycle. Total political action committee (PAC) contributions to 1986 Congressional candidates ($65.5 million) increased 29 percent over the PAC contributions to 1984 candidates ($50.7 million).

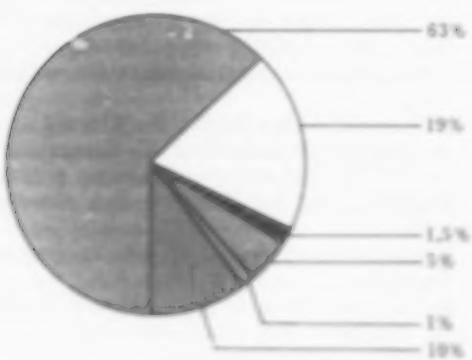
Charts I and II below depict the receipts of 1986 House and Senate candidates by source.

More detailed information on 1985-86 Congressional campaign activity may be obtained from the FEC's August 17, 1986, press release. The release provides comparative information on past election cycles. It also lists the "top 50" 1986 candidates who reported the most campaign finance activity in various categories, for example, the top 50 PAC recipients and the top 50 fundraisers. Contact the FEC's Public Records Office. Call: 376-3140 locally or, toll free, 800/424-9530.

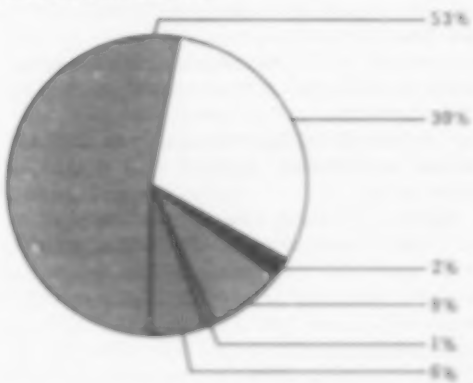
RECEIPTS OF
HOUSE AND SENATE CANDIDATES, 1/85-6/86



SENATE CANDIDATES



HOUSE CANDIDATES



*PAC contributions include contributions from other candidate committees and from any other political committees that are not part of national or state party organizations.

**Other receipts include, for example, party committee contributions, interest and dividends earned on investments, and offsets to expenditures.

PUBLICATIONS

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Complete compilation of Federal election campaign laws prepared by FEC.

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Recommended method of bookkeeping and reporting for Federal candidates and their committees.

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Brief overview of major provisions of the Federal Election Campaign Act and the Commission's role in administering it.

Using FEC Campaign Finance Information

Brochure explaining how to gather information on financial activity of political committees and candidates by using reports and FEC's computer indexes.

Brochures

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- Committee Treasurers
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- State Elections & Federal Campaign Law
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- Volunteer Activity

Annual Report

Report to President and Congress, summarizing agency's activities, advisory opinions and litigation; and presenting Commission's legislative recommendations.

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REGULATIONS

DEADLINE EXTENDED FOR COMMENTS ON BANK LOAN AND PUBLIC FINANCING RULES

The Commission has extended the deadline for submitting comments on proposed revisions to its regulations governing bank loans and the administration of the public financing program for Presidential primary and general election candidates.* (See FEC Regulations at Parts 100, 106, 9001 through 9007 and 9031 through 9039.) Written comments on the proposed revisions should be submitted to Ms. Susan E. Propper, Assistant General Counsel, by October 20, 1986. For more information, Ms. Propper may be contacted by writing the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463 or by calling 376-5690 or toll-free 800/424-9530.

Copies of the Federal Register notice concerning proposed revisions to those regulations may be obtained by calling 376-3120 or, toll-free, 800/424-9530. (See 51 Fed. Reg. 28154, August 5, 1986.)

For a summary of the issues, see the August 1986 Record, page 12.

PUBLIC APPEARANCES

9/24 House Legislative Assistants Association
Washington, D.C.
Chairman Joan D. Aikens

10/8 The American University
Washington, D.C.
Janet Hess, Public Affairs Specialist
Michael Dickerson, Chief of Public Records

10/15 The American University
Washington, D.C.
Ian Stirton, Public Affairs Specialist
Michael Dickerson, Chief of Public Records

CHANGE OF ADDRESS

Political Committees

Registered political committees are automatically sent the Record. Any change of address by a registered committee must, by law, be made in writing as an amendment to FEC Form 1 (Statement of Organization) and filed with the Clerk of the House, the Secretary of the Senate, or the FEC, as appropriate.

Other Subscribers

Record subscribers (who are not political committees), when calling or mailing in a change of address, are asked to provide the following information:

1. Name of person to whom the Record is sent.
2. Old address.
3. New address.
4. Subscription number. The subscription number is located in the upper left hand corner of the mailing label. It consists of three letters and five numbers. Without this number, there is no guarantee that your subscription can be located on the computer.

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RECORD

November 1986 999 E Street NW Washington DC 20463 Volume 12, Number 11

COMMISSIONERS

FEC COMMISSIONERS SWORN IN

On October 3, 1986, the U.S. Senate confirmed President Reagan's nomination of Thomas J. Josefiak and Scott E. Thomas as FEC Commissioners. In an afternoon ceremony at the Commission on October 15, 1986, Commissioner Thomas E. Harris administered the oath of office to Commissioner Thomas and FEC Chairman Joan D. Aikens, to Commissioner Josefiak. (Commissioner Thomas was officially sworn in on the morning of October 14 and Commissioner Josefiak, on the evening of October 15.)

Commissioner Thomas, a Democrat, succeeds Mr. Harris, whose third term on the Commission expired in April 1985.* From 1983 until his appointment as Commissioner, Mr. Thomas served as Executive Assistant to Mr. Harris. Before accepting this staff position, Commissioner Thomas served the agency as an Assistant General Counsel for Enforcement in the Office of General Counsel. He first joined the Commission, as a legal intern, in 1975.

A native of Wyoming, Mr. Thomas holds a Bachelor of Arts degree from Stanford University and a Juris Doctor degree from Georgetown University Law Center. He is a member of the bars for: the District of Columbia, the U.S. District Court for the District of Columbia, the U.S. Court of Appeals for the Ninth Circuit and the U.S. Supreme Court.

Commissioner Josefiak, who succeeds Republican Commissioner Frank P. Reiche, has been serving on the Commission since August 1985.** From 1981 until his appointment as Commissioner, Mr. Josefiak served as Special Deputy to the Secretary of the Senate, who, by law, is an ex officio member of the Commission. Prior to his appointment as Special Deputy, Commissioner Josefiak served as legal counsel to the National Republican Congressional Committee. He also served as minority special counsel on federal election law for the Committee on House Administration, U.S. House of Representatives. Prior to that, he was legislative assistant to Congressman Silvio O. Conte (R-Mass.).

A native of Massachusetts, Mr. Josefiak holds a Bachelor of Arts degree from Fairfield University, Fairfield, Connecticut, and a Juris Doctor degree from Georgetown University Law Center.

Mr. Harris continued to serve on the Commission until President Reagan nominated Commissioner Thomas to replace him.

***Since the first session of the 99th Congress had adjourned in August 1985, President Reagan appointed Mr. Josefiak under the "recess appointment" clause of the U.S. Constitution. On October 3, 1986, during the second session of the 99th Congress, the Senate confirmed Mr. Josefiak's nomination.*

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REGULATIONS

STANDARDS OF CONDUCT FOR FEC COMMISSIONERS AND EMPLOYEES: EFFECTIVE DATE FOR RULES

On September 29, 1986, the Commission published final rules in the Federal Register which govern standards of conduct for FEC Commissioners and employees. The final rules will become effective on October 29, 1986. See 11 CFR Part 7 in 51 Fed. Reg. 34440.

The intent of the revised rules is to "facilitate the proper performance of Commission business and encourage citizen confidence in the impartiality and integrity of the Commission." Major provisions of the rules are highlighted below.

Subpart A: General Provisions

This subpart sets forth general provisions governing standards of conduct for employees. It explains the process by which employees are to be notified of these standards of conduct. This subpart also provides for an interpretation and advisory service to be administered by the agency's Ethics Officer. Finally, Subpart A specifies the procedures for reporting and handling suspected violations of the Ethics Act, as well as possible disciplinary and remedial actions which may be taken against violators.

Subpart B: Conduct and Responsibilities

Subpart B establishes standards of conduct for Commissioners and employees. It offers general rules of conduct for Commissioners and staff and lists categories of unacceptable activities. This subpart also includes procedures for submitting outside employment requests.

Subpart C: Conduct and Responsibilities of Special Government Employees

This subpart sets forth specific standards for conduct applicable to special Commission employees, i.e., those working for the Commission on a temporary basis.

Subpart D: Post Employment Conflicts of Interest; Procedures for Administrative Enforcement Proceedings

The rules of this subpart follow the procedures that the Commission approved in 1980 for correcting violations of the Ethics Act's conflict-of-interest provisions by former employees. See 18 U.S.C. §§207(a),(b) and (c). If the Commission finds that a complaint alleging violations of these provisions by a former employee can be substantiated, the Ethics Officer will investigate the alleged violation(s) and submit an investigatory report to the Commission. If the Commission then finds reasonable cause to believe a former employee has violated the conflict-of-interest provisions, the agency will initiate a disciplinary proceeding. An impartial hearing examiner designated by the Ethics Officer will conduct the proceeding. (At the request of the former employee, the proceeding may include a hearing.) The employee may appeal the hearing examiner's decision to the Commission.

FEDERAL REGISTER

FEDERAL REGISTER NOTICES

Copies of notices are available in the Public Records Office.

Notice	Title
1986-7	Clearinghouse on Election Administration's Advisory Panel Meets (51 Fed. Reg. 31369, September 3, 1986)
1986-8	11 CFR Part 9001 et al.: Public Financing of Presidential Primary and General Election Candidates and 11 CFR 100.7(b)(11) and 100.8(b)(12): Bank Loans; Comment Period on Proposed Rules Extended (51 Fed. Reg. 34221, September 26, 1986)
1986-9	11 CFR Part 7: Standards of Conduct for Agency Employees: Final Rule (51 Fed. Reg. 34440, September 29, 1986)

The Record is published by the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. Commissioners are: Joan D. Aikens, Chairman; John Warren McGarry, Vice Chairman; Lee Ann Elliott; Thomas J. Josefiak; Danny Lee McDonald; Scott E. Thomas; Jo-Anne L. Coe, Secretary of the Senate, Ex Officio; Benjamin J. Guthrie, Clerk of the House of Representatives, Ex Officio. For more information, call 202/376-3120 or toll-free 800/424-9530.

ADVISORY OPINIONS

ALTERNATE DISPOSITION OF ADVISORY OPINION REQUEST

AOR 1986-34: Control and Operation of Insolvent Bank's PAC by Federally Chartered Corporation

On October 3, 1986, the Commission closed the file on this advisory opinion request, after determining that the requester lacked authority to request an advisory opinion on behalf of the American Diversified Savings Bank and its PAC.

ALTERNATE DISPOSITION OF ADVISORY OPINION

On October 23, 1986, the Commission decided to reconsider Advisory Opinion 1986-35. The Commission's decision vacated its original opinion, issued on September 26, 1986. (The Commission's procedures for reconsidering an advisory opinion are spelled out in section 112.6 of FEC Regulations.)

ADVISORY OPINION REQUESTS

The following chart lists recent requests for advisory opinions (AORs). The full text of each AOR is available to the public in the Commission's Office of Public Records.

AOR	Subject
1986-36	Funds donated to House candidates by campaign committee of incumbent seeking House committee chairmanship. (Date made public: September 24, 1986; Length: 2 pages)
1986-37	Presidential candidate debate sponsored by nonprofit corporation in conjunction with its national convention. (Date made public: October 1, 1986; Length: 4 pages, plus 3-page supplement)

ADVISORY OPINIONS: SUMMARIES

An Advisory Opinion (AO) issued by the Commission provides guidance with regard to the specific situation described in the AOR. Any qualified person who has requested an AO and acts in accordance with the opinion will not be subject to any sanctions under the Act. Other persons may rely on the opinion if they are involved in a specific activity which is indistinguishable in all material aspects from the activity discussed in the AO. Those seeking guidance for their own activity, however, should consult the full text of an AO and not rely only on the summary given here.

AO 1986-29: Slate Mailing by House Candidate

Representative Fortney (Pete) Stark's reelection committee plans to develop and circulate a slate card supporting his candidacy and those of one federal candidate and several state and local candidates. Several issues--ie., whether or not the disbursement for the card is a contribution from Stark to the other candidates, whether or not a disclaimer is required and the particular reporting requirements--depend on two factors: whether the card is distributed by volunteers and, if it is mailed, how the mailing is handled.

Under Mr. Stark's proposal, his committee, together with the Alameda County Democratic Central Committee, will select the candidates to be listed on the card. Distributed only in Mr. Stark's Congressional district, the card will be sponsored by a (yet unnamed) political committee. While Representative Stark plans to pay for the card, he will seek proportional reimbursement from each candidate listed on the card.

Slate Card Program as Exception to Contribution/Expenditure

The Act and FEC Regulations exclude from the definitions of "contribution" and "expenditure" those payments made by a candidate for campaign materials which refer to other candidates, provided the materials are distributed in conjunction with volunteer activities. (Such disbursements are popularly referred to as "coattail support.") 2 U.S.C. §441(a)(8)(B)(xi); 11 CFR 100.7(b)(16) and 100.8(b)(17). If the slate card is mailed, the exception applies only if the mailing: 1) is made from lists developed by the candidate(s) and 2) is not made by a commercial vendor. Consequently, payments by the Stark committee will not constitute in-kind contributions to the federal candidate listed on the card provided:

- o Volunteers distribute the slate card;
- o The committee uses its own mail lists or those developed by other candidates listed on the slate card; and

continued

o If reimbursements are made, they are paid from funds that are permissible under the Act.

Similarly, if any of the listed candidates pay for the slate card in conjunction with their own volunteer activities, their payments will not constitute in-kind contributions to Representative Stark's campaign.

Since this type of mailing does not constitute an expenditure for public political advertising, the Stark committee will not have to include a disclaimer notice on the slate cards. On the other hand, if it wished, the Stark Committee could place a notice on the card identifying a (yet unnamed) political committee as the sponsor of the mailings. As long as the sponsoring committee did not pay for the cards, payments for the card still would not be considered contributions or expenditures on behalf of the other named candidates.

Slate Card Program as Contribution/Expenditure

If the committee decides to distribute the slate cards by using lists developed by those who are not candidates or by allowing a commercial vendor to handle the mailing, the portion of the costs allocable to the federal candidate listed on the slate card will constitute an in-kind contribution from the Stark Committee to that candidate. 2 U.S.C. §441a(a)(7). As such, these payments will be subject to the Act's limits on contributions. 2 U.S.C. §441a(a)(1)(A). Reimbursements from listed candidates (federal, state or local) for their share of direct mailing costs must be made from funds permissible under the Act.

Slate cards distributed through such direct mailings are considered public political advertising and must, therefore, bear a proper disclaimer notice. See 2 U.S.C. §441a(d); 11 CFR 110.11(a).

The Commission noted that the Act preempts any provisions of state law that impose requirements on federal candidates listed on the slate card (e.g., disclosure requirments). The Act does not, however, preempt state disclosure provisions which would require the committee to supply information to listed state and local candidates for state reporting purposes.

The opinion also provided detailed advice on how the Stark Committee should disclose the slate card transactions. (Date issued: September 11, 1986; Length: 5 pages)

AO 1986-32: PAC's Refunds to Contributors and Reimbursement to Parent Organization

Before terminating, SACO/PAC, the separate segregated fund of the Sino American Cooperative Organization, Inc. (SACO), may dispose of its remaining funds by: 1) making contribution refunds to the PAC's contributors and 2) reimbursing solicitation expenses to SACO, which the organization incurred on behalf of SACO/PAC.

Nothing in the Act or FEC Regulations would prohibit SACO/PAC from amending its by-laws to permit these activities. (Its current by-laws provide that SACO/PAC will, upon its termination, distribute any remaining funds to the Republican and Democratic Parties.)

SACO/PAC's proposed disposal of its funds and its subsequent termination are subject to the following reporting requirements:

o SACO/PAC must report the contribution refunds and reimbursement to SACO as disbursements. 11 CFR 104.3(b) (1) and (b) (3).

o SACO/PAC must file a termination report with the FEC before terminating. 11 CFR 107.3(a).

(Date issued: August 17, 1986; Length 4 pages)

COURT CASES

DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE v. FEC (Second Suit)

On October 3, 1986, the U.S. District Court for the District of Columbia declared that the FEC's dismissal of an administrative complaint filed with the agency by the Democratic Congressional Campaign Committee was contrary to law. (Democratic Congressional Campaign Committee v. FEC; Civil Action No. 86-2075) Pursuant to 2 U.S.C. §437g(a)(8)(C), the court directed the FEC to conform with its declaration within 30 days.

Background

The Democratic Congressional Campaign Committee (DCCC), a national committee of the Democratic Party, filed its administrative complaint with the FEC on December 20, 1985. DCCC alleged that its Republican counterpart, the National Republican Congressional Committee (NRCC), violated the election law by failing to allocate $10,000 to NRCC's coordinated party spending limits for a House candidate in Rhode Island.* NRCC made the expenditures for mailings during 1985, which allegedly benefited the Republican House candidate in Rhode Island's First Congressional District. (Although the mailings were officially sponsored by the Rhode

**Coordinated party expenditures are limited expenditures which may be made by party committees on behalf of federal candidates in general election campaigns. During 1986, based on the cost of living adjustment, a national party committee could spend up to $21,810 for each of its House candidates in Rhode Island. 2 U.S.C. §441a(d).*

Island Citizens Group, NRCC did not deny that it had actually prepared and paid for the mailings.)

The mailings encouraged recipients to petition the House Ethics Committee to investigate newspaper charges that "Cong. St. [sic] Germain had amassed a multimillion dollar personal fortune by using his public position to help wealthy investors." (Congressman St Germain was the Republican candidate's opponent for the Rhode Island House seat.)

The General Counsel recommended the Commission find reason to believe that the NRCC had violated the election law by failing to allocate and report the mailing expenses as coordinated party expenditures. However, on June 5, 1986, a majority of the Commissioners failed to find "reason to believe" the NRCC had violated the election law. Subsequently, by a unanimous vote, the Commissioners closed the file on the complaint.

Court Ruling

Initially the court noted that even though the Commissioners' dismissal of the complaint had resulted from their failure to obtain the votes required to find reason to believe the election law had been violated, the DCCC still had "the right [under the statute] to seek review of an adverse outcome."

On reviewing the DCCC's administrative complaint, the court found that the mailing addressed in FEC Advisory Opinion 1985-14* and those conducted by the NRCC in Rhode Island were similar. They both: "1) were prepared by a national committee of a political party, 2) identified by name a specific Congressman of the opposing party, 3) criticized the record of the Congressman, and 4) were distributed to the constituents of the Congressman in question."

Furthermore, the court noted that "...[T]he Counsel found that the mailer's statement about ridding the government of corruption 'is a reference to an election in that one way to remove Congressman St Germain would be to vote him out of office.'"

The court therefore concluded that the "NRCC mailer conveys an 'electioneering message' as defined by the FEC's own advisory opinions and as interpreted by its General Counsel. Thus the FEC's dismissal of the plaintiff's complaint was 'contrary to law.'"

DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE V. FEC (Third Suit)

On October 9, 1986, the U.S. District Court for the District of Columbia granted, without prejudice, the Democratic Congressional Campaign Committee's (DCCC's) and the FEC's stipulated motion to dismiss an amended complaint which DCCC filed with the court on September 8, 1986. (Democratic Congressional Campaign Committee v. FEC; Civil Action No. 85-2485).

In its amended complaint, DCCC, a national committee of the Democratic Party, asked the district court to:

- o Declare that the FEC acted contrary to law in failing to act on an administrative complaint within 120 days after DCCC had filed the complaint; and
- o issue an order directing the FEC to act on the issues raised in DCCC's administrative complaint within 30 days of the court's decision. (See 2 U.S.C. §437g(a)(8)(A).)

DCCC claimed that it had filed the administrative complaint with the FEC on December 20, 1985. In the administrative complaint, DCCC alleged that four organizations had jointly made illegal expenditures aimed at defeating Michigan Congressman Robert Carr in his 1986 reelection effort. Specifically, DCCC asserted that the organizations had undertaken a media campaign which falsely claimed that Congressman Carr had used his franking privilege illegally. (The organizations were: The Michigan State Republican Committee, The 6th Congressional District Republican Committee, Citizens Against Government Waste and Marketing Resource Group.)

SIMEON GOLAR v. FEC (Second Suit)

On September 18, 1986, the U.S. District Court for the District of Columbia dismissed, without prejudice, a suit that Mr. Simeon Golar had filed against the FEC in January 1985. (Simeon Golar v. FEC; Civil Action No. 85-225) The court dismissed the suit after Mr. Golar notified it that he was "not prepared to prosecute this action at this time." The court noted that, on showing "good cause," Mr. Golar had the right to reopen the suit in the future.

For a summary of the issues addressed in Mr. Golar's suit, see page 4 of the March 1985 Record.

continued

**AO 1985-14 was summarized on page 6 of the July 1985 Record.*

NEW LITIGATION

FEC v. Bank One

The FEC claims that campaign loans made by four banks to the John Glenn Presidential Committee, Inc., the principal campaign committee for Senator Glenn's publicly funded campaign for the Presidency in 1983-84, were not made in the ordinary course of business. Specifically, Bank One, Ameritrust, BancOhio and Huntington National Bank did not accept sufficient collateral from the Glenn campaign to guarantee repayment of the loans.

Since bank loans that are not made in the ordinary course of business constitute prohibited contributions,* the FEC asks the court to declare that:

- o The four banks violated section 441b(a) of the election law by making prohibited contributions to the Glenn campaign; and
- o The Glenn campaign, in turn, violated section 441b(a) of the election law by accepting the contributions.

The FEC also asks the court to assess a civil penalty against each defendant amounting to the greater of $5,000 or 100 percent of the amount involved in each defendant's violation.

U.S. District Court for the Southern District of Ohio, Eastern Division, Civil Action No. C2-86-1082, September 10, 1986.

FEC v. Mark Barry

The FEC asks the district court to declare that Mark Barry, the assistant treasurer for Mickey Edwards' 1982 and 1984 House campaigns, knowingly and willfully violated the Act and FEC Regulations by:

- o Failing to maintain adequate records for approximately $164,784 in disbursements that he made on behalf of the Edwards in '82 Committee, the principal campaign committee for Mr. Edwards' 1982 House campaign (11 CFR 102.9(b)(1)); and
- o Making an excessive contribution** of $1,587.60 to the Edwards in '82 Committee (2 U.S.C. §441a(a)(1)(A)).

The agency further asks the court to:

- o Assess a civil penalty against Mr. Barry amounting to the greater of $10,000 or 200 percent of the total amount involved in the violations; and
- o Permanently enjoin Mr. Barry from further violations of the Act and FEC Regulations.

U.S. District Court for the District of Massachusetts, CA No. 86-2807-C, September 30, 1986.

See 11 CFR 100.7(a) (1) (i) and 100.7(b) (11).

***Under the Act, an individual may contribute up to $1,000 to a candidate per election.*

COMPLIANCE

FEC PUBLISHES NONFILERS

During September, the Commission published the names of two House campaigns in Louisiana that had each failed to file pre-primary reports for the state's September 27 Congressional primary.

The election law requires the agency to publish the names of nonfiling candidates. Compliance actions against nonfilers are decided on a case-by-case basis. The law gives the Commission broad authority to initiate enforcement actions resulting from infractions of the law, including civil court enforcement and imposition of civil penalties.

PUBLIC APPEARANCES

10/5-7 General Election Seminar
for County Election Officials
Santa Fe, New Mexico
William Kimberling, Deputy Director, National Clearinghouse on Election Administration

10/14 The Asia Foundation
Washington, D.C.
William Kimberling, Deputy Director, National Clearinghouse on Election Administration

12/3-5 Council on Governmental Ethics Laws
Hartford, Connecticut
Vice Chairman John Warren McGarry
Charles Steele, General Counsel
Kent Cooper, Assistant Staff Director for Public Disclosure

800 LINE

JOINT FUNDRAISING: AMENDING FORMS 1 AND 2

In recent months, the Commission has received questions on joint fundraising procedures. The following article focuses on special reporting rules that apply to federal candidates and political committees which plan on participating in a joint fundraiser.

Joint fundraising is election-related fundraising conducted jointly by at least one federal political committee and one or more other committees.* Federal and nonfederal candidate committees, party committees and other types of committees -- federal or nonfederal -- may share in the fundraising. (Committees sponsored by corporations and unions, however, may not participate; see footnote below.) When engaging in joint fundraising, the participating committees must follow the rules set out in Commission Regulations at 11 CFR 102.17. These rules are explained in a handout available from the Commission. Call the toll-free number, 800/424-9530, or the local number, 202/376-3120.

Joint fundraising rules require special reporting -- particularly with regard to FEC Form 1, the Statement of Organization, and FEC Form 2, the Statement of Candidacy. This article explains how the forms must be filled out and amended for joint fundraising purposes.**

Joint Fundraising Representative

Joint fundraising participants must select a fundraising representative to collect and deposit proceeds, pay expenses, allocate proceeds and expenses among participants, keep records and file reports on overall joint fundraising activity. The fundraising representative deposits the proceeds (only those permissible under federal law) in a separate account -- the joint fundraising account. 11 CFR 102.17(c)(3).

The fundraising representative must be a federally registered political committee. It may be either a new committee, established just for the fundraiser and then terminated, or one of the federal political committees participating in the fundraising event. 11 CFR 102.17(a)(1)(i), (b)(1) and (b)(2).

To simplify reporting, it is recommended that the participants establish a separate political committee to be the fundraising representative, rather than designate a participating committee as the representative, especially if two or more of the participants are federal candidate committees.

Newly Formed Political Committee as Fundraising Representative. A new committee established to act as the joint fundraising representative must file a Form 1 (Statement of Organization) or a letter containing the same information. The form or letter should make clear that the committee is a joint fundraising representative. (If using Form 1, the committee places this information under entry No. 5, "Type of Committee.") The letter or form must also list the names and addresses of all the federal political committees participating in the joint fundraising effort. (On the form, this information is shown under entry No. 6. The notation under "Relationship" should read "joint fundraising participants.") The remainder of the form should be filled out. The same information that the form requires should be included in the letter. Note that the name and address of the bank or other depository which holds the joint fundraising account must be listed as a committee depository. The statement must be signed by the treasurer or assistant treasurer designated on the form or letter.*

Once the joint fundraising activity is finished and all the bills are paid, the new committee may file a termination report. The law permits committees to terminate only when they no longer intend to receive any contributions or make any expenditures and when they have no outstanding debts or obligations.

Participating Committee as Fundraising Representative. As an alternative to establishing a new committee, the fundraising representative may be one of the participants that is already a federally registered political committee. Note, however, that a political committee that functions as both the fundraising representative and participant may find reporting more complicated.

A representative/participant must amend its Statement of Organization (either on Form 1 or in a letter) to show that it is the joint fundraising representative and to list the names and addresses

continued

**PACs established by corporations and labor organizations (i.e., separate segregated funds) may not engage in joint fundraising; nor may unregistered committees sponsored by corporations and unions. 11 CFR 102.17(a)(3). Corporate and labor separate segregated funds may, however, raise funds through collecting agents, following the rules at 11 CFR 102.6(b).*

***Amendments to Form 1 must be reported within 10 days after the change takes place. 11 CFR 102.2(a)(2).*

**If all the federal participants are House campaign committees, the newly formed fundraising representative files with the Clerk of the House. If all the federal participants are Senate campaign committees, the new committee files with the Secretary of the Senate. Otherwise, the new committee files with the FEC.*

of the federally registered committees that are participating in the fundraiser. (See above section that explains this procedure.)

The representative/participant must also establish a separate account to be used solely for joint fundraising receipts and disbursements. The name and address of the bank holding this joint fundraising account must be listed on the amended statement if the bank has not been previously listed as a committee depository. 11 CFR 102.17(c)(3)(i).

The amendment must be signed and dated by the treasurer or assistant treasurer.*

Remember, an amended Statement of Organization should include only the committee's name, address, FEC identification number and the new information. 11 CFR 102.2(a)(2). If using Form 1, the committee should check "yes" under entry No. 4 to show that the statement is an amendment. Likewise, a letter filed in lieu of the form should make clear that it is an amendment to the Statement of Organization.

Participating Federal Candidates

A federal candidate participating in the joint fundraiser must designate the joint fundraising representative as an authorized committee. 11 CFR 101.1(b) and 102.17(a)(1)(i). To accomplish this, the candidate files either an amended Statement of Candidacy (FEC Form 2) or a letter containing the same information. In either case, the amendment should note that the committee being authorized is the joint fundraising representative. The candidate signs the amendment and files it with his or her principal campaign committee. That committee, in turn, files the amendment with the appropriate federal and state offices.

Note that, within 10 days after the candidate files the designation with the principal campaign committee, the joint fundraising representative must file a Statement of Organization or an amendment. See the above section on joint fundraising representatives. Additionally, the candidate's principal campaign committee must file an amended Statement of Organization. See the section below on participating federal committees.

Participating Federal Committees

Each federally registered committee participating in the joint fundraiser, including a candidate committee, must file an amended Statement of Organization (FEC Form 1) or a letter containing the same information.** The amendment, signed by the treasurer or assistant treasurer, must list the name and address of the joint fundraising representative, which should be identified as that type of committee. (On the form, this information is listed under entry No. 6; "joint fundraising representative" should be listed under "Relationship.") The amendment must also provide the name and address of the bank holding the joint fundraising account if the bank has not been previously listed as a committee depository. 11 CFR 102.17(c)(3)(i).

Remember, an amended Statement of Organization should include only the committee's name, address, FEC identification number and corrected information. 11 CFR 102.2(a)(2). If using Form 1, the committee should check "yes" under entry No. 4 to show that the statement is an amendment. Likewise, a letter should make clear that it is an amendment to the Statement of Organization.

JOINT FUNDRAISING SPECIAL REPORTING REQUIREMENTS

	Form 1	Amended Form 1	Amended Form 2
Fundraising Representative			
New Committee	X		
Participant Committee		X	
Participants			
Candidate			X 1/
Prinicpal Campaign Committee		X	X 1/
Other Type of Committee 2/		X	

**The amendment is filed with the federal office where the representative/participant customarily files its reports and statements.*

***The amendment is filed with the federal office where the participant customarily files its reports and statements.*

1/The candidate files the amended Form 2 with the principal campaign committee which, in turn, files the form with the appropriate federal and state offices.

2/PACs established by corporations and labor organizations (separate segregated funds) may not engage in joint fundraising. See 11 CFR 102.17(a)(3).

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STATISTICS

1983-84 PAC ACTIVITY

While political action committees (PACs) increased their total contributions to federal candidates during the current election cycle, as compared with contributions made in past election cycles, the growth rate of PAC giving declined. During the first 18 months of the 1985-86 election cycle, PACs increased their candidate support by 37 percent over the same period in the 1983-84 cycle. By contrast, during the first 18 months of the 1983-84 election cycle, PAC contributions increased 50 percent over 1981-82 levels.

From January 1, 1985, through June 30, 1986, PACs raised $254 million and spent $205 million. PACs opened the election cycle with $55 million cash on hand and had $103 million on hand by July 1, 1986.

Chart I below compares contributions made by PACs over four election cycles. Note that only 62 percent of the PACs registered with the FEC during the 1985-86 cycle actually contributed to candidates. A similar pattern prevailed during the same 18-month period of the past four election cycles.

Charts II and III on page 12 show the top 10 PAC fundraisers and contributors to 1986 candidates.

More detailed information on the financial activity of PACs may be obtained from the FEC press release of September 7, 1986, which is available from the FEC's Public Records Office. Call: 376-3140 locally or, toll free, 800/424-9530.

continued

CHART I
PAC CONTRIBUTIONS TO HOUSE AND SENATE CANDIDATES
(figures in millions of dollars)

	Election Cycle				
	1977-78	1979-80	1981-82	1983-84	1985-86
Contributions* to All Federal Candidates	$11	$25	$38	$57	$78
Contributions to U.S. Senate and House Candidates in Current Cycle	$11	$21	$35	$51	$71
Number of PACs Making Contributions	971	1,647	2,124	2,541	2,729
Total Number of PACs Registered with the FEC	1,709	2,571	3,479	4,243	4,421

**Includes contributions to committees of: candidates active in current election cycle; and all federal candidates (for House, Senate and Presidency) campaigning in future elections or retiring debts of former campaigns.*

CHART II
TOP 10 MONEY RAISERS

Political Action Committee	Amount Raised 1/1/85 - 6/31/86
Fund for America's Future, Inc.	$8,249,387
National Congressional Club	8,099,908
National Conservative Political Action Committee	7,738,709
Realtors Political Action Committee (National Association of Realtors)*	4,452,939
American Medical Political Action Committee (American Medical Association)	4,388,396
NRA Political Victory Fund (National Rifle Association)	3,155,346
Democratic Republican Independent Voter Education Committee (Teamsters Union)	2,806,109
Auto Dealers for Free Trade PAC	2,742,554
League of Conservation Voters (League of Conservation Voters)	2,583,232
National Education Association PAC (National Education Association)	2,344,868

**The connected organizations (i.e., sponsors) of separate segregated funds are indicated in parentheses.*

CHART III
TOP 10 CONTRIBUTORS TO FEDERAL CANDIDATES

Political Action Committee	Amount Contributed 1/1/85 - 6/31/86
Realtors Political Action Committee (National Association of Realtors)*	$1,387,429
National Education Association PAC (National Education Association)	1,034,220
Build PAC (National Association of Home Builders)	949,772
American Medical Political Action Committee (American Medical Association)	869,098
Committee on Letter Carrier Political Education (National Association of Letter Carriers of USA)	839,255
Association of Trial Lawyers PAC (Association of Trial Lawyers of America)	803,600
Seafarers Political Activity Donation (Seafarers International Union of North America)	768,956
National Association of Life Underwriters PAC (National Association of Life Underwriters)	737,317
UAW-V-CAP (United Auto Workers)	711,470
Democratic Republican Independent Voter Education Committee (Teamsters Union)	709,426

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REGULATIONS

HEARING ON PUBLIC FINANCING RULES

On December 3, 1986, the Commission will hold a public hearing on proposed rules governing the public financing of Presidential primary and general election campaigns. 11 CFR Parts 100, 106, 9001 through 9007 and 9031 through 9039. The deadline for submitting requests to testify at the public hearing was November 21, 1986.

On August 5, 1986, the Commission had published a notice in the Federal Register soliciting public comment on the proposed rules. See 51 Fed. Reg. 28154.

REPORTING REMINDER

Congressional candidates active in the 1986 general election are required to file a post-election report, due by December 4, 1986. PACs and party committees must also file the post-election report, regardless of their activity.

For reporting details, see page 1 of the October 1986 Record or call the FEC at 800/424-9530.

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ADVISORY OPINIONS

AO 1986-31: Contributions to Candidate Running Simultaneously in Special and Regular Elections for Senate Seat

On November 4, 1986, North Carolina held both a regularly scheduled general election for a U.S. Senate seat and a special election to fill the remainder of deceased Senator John East's term, which expires on January 3, 1987. The Democratic and Republican candidates who were nominated as their respective parties' candidates in the regular general election were also nominated by their parties' executive committees as candidates in the special election. Thus, the two North Carolina elections featured candidates who were running simultaneously for different terms of the same Senate seat.

The Democratic Senatorial Campaign Committee (DSCC), a national committee of the Democratic Party, posed several questions with regard to the Democratic Senatorial candidate's participation in the two elections. The Commission concluded that separate contribution limits applied to the candidate's special and regular general election campaigns, but that contributions made to either campaign could be used for either

continued on p. 2

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the special or regular general election.* Moreover, the Democratic Senatorial candidate could use the same principal campaign committee for both campaigns. (The Commission's conclusions with regard to the committee's treatment of contributions and expenditures for the two elections are detailed below.)

The Commission was unable, however, to reach a decision by an affirmative vote of four Commissioners on whether, in making coordinated party expenditures on behalf of the Democratic Senatorial nominee, a national Democratic party committee had a single spending limit for both elections or a separate limit for each. See 2 U.S.C. §441a(d). Similarly, the Commissioners were divided on whether the $17,500 limit on national party contributions to Senate candidates and nominees applied collectively to the regular and special elections or to each election separately. See 2 U.S.C. §441a(h).

Separate Contribution Limits Apply for Each Election

Although the two North Carolina Senatorial elections were held on the same day for the same office, the elections constituted two separate general elections because voters selected an individual to fill two different terms of the office. The Commission stated in AO 1984-42 that, under these circumstances, the special and regular general elections constituted separate elections with separate contribution limits.* 2 U.S.C. §441a(a)(1) and (2). Thus, individuals and political committees contributing to the candidate's committee were each subject to a $1,000 limit for each election. Qualified multicandidate PACs were subject to a $5,000 limit for each election.

Use of Undesignated and Designated Contributions

Undesignated Contributions. Under FEC Regulations, undesignated contributions are normally considered contributions made for the next regularly scheduled election. 11 CFR 110.1(a)(2). Since, however, the North Carolina special and regular general elections occurred at the same time and were the next regularly scheduled elections after the primary, the Democratic candidate's committee could treat undesignated contributions as contributions for either the special or general election. The committee could allocate a portion of an undesignated contribution to both the special and regular general elections, provided the allocation did not cause the contributor to exceed his/her limit for either election. If an allocation resulted in an excessive contribution to either campaign, the candidate's committee could reallocate the excessive portion of the contribution without requesting a redesignation from the contributor.

Designated Contributions. Similarly, contributions designated for either the special or the general election could be used for either campaign. Thus, the committee did not have to take any specific steps to ensure that contributions designated for one election were used solely for that election.

The Commission distinguished its conclusion in this opinion from its conclusion in Advisory Opinion 1986-17. In that opinion, the Commission said that contributions designated for a particular election had to be used solely for that election. However, AO 1986-17 concerned contributions accepted by the campaign of a candidate who had not yet established his candidacy in the general election. In this case, candidacy was established with regard to both the special and regular general elections.

Separate Campaign Accounts Not Required

The Democratic Senatorial candidate was not required to authorize separate campaign committees for the special and regular general elections. However, if he used the same campaign committee for both campaigns, the committee had to account separately for contributions made with respect to each election. 11 CFR 102.9(e). This dual accounting procedure would help the committee monitor the separate contribution limits applicable to each campaign.

The committee was not, however, required to advise its contributors of the procedure.

Special Reporting Requirements

In itemizing contributions on Schedule A of its FEC report, the Committee should indicate the election for which each contribution was made. (It could, however, use contributions in

This interpretation of the contribution limits applies only to the limits mentioned in 2 U.S.C. section 441a(a). The Commission's decision does not address the issue of National party contributions to Senate candidates and nominees, contained in 2 U.S.C. section 441a(h).

The Record is published by the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. Commissioners are: Joan D. Aikens, Chairman; John Warren McGarry, Vice Chairman; Lee Ann Elliott; Thomas J. Josefiak; Danny Lee McDonald; Scott E. Thomas; Jo-Anne L. Coe, Secretary of the Senate, Ex Officio; Benjamin J. Guthrie, Clerk of the House of Representatives, Ex Officio. For more information, call 202/376-3120 or toll-free 800/424-9530.

either election.) On Schedule B, the committee need not identify the particular election for which an operating expenditure was made. Commissioner Thomas J. Josefiak filed a concurring opinion with which Chairman Joan D. Aikens and Commissioner Lee Ann Elliott agreed. (Date issued: October 14, 1986; Length: 14 pages, including concurrences.)

AO 1986-33: Single Campaign Depository for Three Corporate PACs Prohibited

The respective separate segregated funds of three corporations may not designate a single campaign account for their political activity, even though they are affiliated by virtue of ties between their parent corporations. (One of the corporations, Metropolitan Mortgage and Securities Co, Inc. owns most of the stock in Consumers Holding Group Co., Inc., which, in turn, wholly owns Western United Life Assurance Co. Moreover, the three corporations have the same chief executive officers and each corporation has employees who perform duties for the three corporations.) However, the three separate segregated funds may designate the same financial institution as their campaign depository. Each committee would then establish a separate campaign account with that financial institution.

Under the Act and FEC Regulations, affiliated separate segregated funds share a single contribution limit, but they are considered separate entities for purposes of registration and reporting. Each such committee must maintain a separate account. See 2 U.S.C. §432(h)(1); 11 CFR 103.2 and AO 1980-8. (Date issued: October 10, 1986; Length: 3 pages)

AO 1986-35: TV Station's Offer of Free Air Time to Candidates

The opinion summarized below (AO 1986-35) was vacated on October 23, 1986, after the Commission voted to reconsider it. On November 20, 1986, the Commission reconsidered advisory opinion request 1986-35 but was unable to approve a new opinion by the requisite four-vote majority.

Summary of Original Opinion Vacated by the Commission

Rep. Howard Coble may not accept free broadcast time from WGGT-TV for airing political ads prepared by his reelection campaign. Since the tv station is owned by a corporation, the acceptance of free broadcast time by the Coble campaign would constitute the receipt of a prohibited corporate contribution from the station. To avoid accepting a prohibited contribution, the Coble campaign would have to pay WGGT-TV the usual and normal charge for the broadcast time.*

In offering equal amounts of free broadcast time to all the House candidates in Rep. Coble's Congressional district (i.e., eighteen 30-second slots to each candidate), WGGT-TV said that it hoped to increase voter awareness of 1986 federal elections and to combat voter apathy. The free time offered to the candidates, however, would be subject to immediate preemption by cash advertisers.

Under the Act and FEC Regulations, media corporations (as other corporations) are prohibited from making contributions to federal candidates. This prohibition applies to in-kind contributions made by corporations, such as providing services (free broadcast time) or goods. 2 U.S.C. §§441b, 441b(2) and 431(8)(A)(i).

Commission Regulations exempt from the definition of contribution any "cost incurred in covering or carrying a news story, commentary or editorial by any broadcast station. . .unless the facility is owned or controlled by any political party, political committee, or candidate." 11 CFR 100.7(b)(2); 2 U.S.C. §431(9)(B)(i). In this case, however, the tv station's offer of free broadcast time to federal candidates would not qualify as a legitimate press function. The time alloted to each candidate would come from time otherwise sold to commercial advertisers and could be preempted by them. Moreover, the 30-second political ads provided by the candidates would be the same as their paid ads aired over other stations.

Commissioner Thomas E. Harris filed a dissent. (Date issued: September 26, 1986; Length: 6 pages, including dissent)

AO 1986-36: Contributions to House Candidates by Committee of Incumbent Seeking House Committee Chairmanship

Congressman Charles E. Bennett's 1986 reelection campaign (the committee) may use its excess campaign funds to make contributions to other House candidates running in the 1986 general election. Since the committee is considered a "person" under the election law, it may give up to $1,000** to each general election candidate. However, its total contributions to the House candidates would not be subject to an overall annual limit (i.e., $25,000). That limit is imposed only on contributions from individuals, not committees.

**This means the campaign must pay the lowest unit rate, or comparable use rate, under 47 U.S.C. section 315(b) and its applicable rules and regulations.*

***By contrast, a multicandidate committee that is not authorized by a candidate may give up to $5,000 per candidate, per election.*

Since Congressman Bennett is unopposed in the general election, he explains that "his campaign funds. . .will not be needed in any great extent this year. . . ."

The Act states that a campaign may use its excess funds for "lawful purposes." 2 U.S.C. §439a; 11 CFR 113.2. In previous advisory opinions, the Commission concluded that a Congressional campaign's contributions to other federal candidates constituted a lawful use of the campaign's funds, provided its contributions complied with the Act's dollar limits. See AOs 1981-15, 1983-14 and 1985-13. The Commission noted that its conclusion was not affected by Congressman Bennett's candidacy for a House committee chairmanship. Commissioner Thomas J. Josefiak filed a concurring opinion. (Date issued: October 24, 1986; Length: 4 pages, including concurrence)

ADVISORY OPINION REQUESTS

The following chart lists recent requests for advisory opinions. The full text of each AOR is available to the public in the Commission's Office of Public Records.

AOR	Subject
1986-38	Individual's financing of media ads to promote conservative candidates. (Date made public: October 16, 1986; Length: 1 page, plus 1-page supplement)
1986-39	Excess campaign funds used to establish trust for minor. (Date made public: October 22, 1986; Length: 1 page)
1986-40	Building fund established by state party committee as separate federal account. (Date made public: October 30, 1986; Length: 1 page)
1986-41	Compensation of incorporated trade association's employees increased to encourage contributions to nonconnected PAC. (Date made public: October 31, 1986; Length: 2 pages)

COMPLIANCE

FEC PUBLISHES NONFILERS

In late October, the Commission published the names of House and Senate campaigns that failed to file reports of financial activity due in October.

On October 30, the Commission published the names of five House campaigns that did not file the third quarter report due by October 15. House campaigns failing to meet the filing deadline were located in: Arizona (4th Congressional District); Kentucky (3rd Congressional District); Michigan (13th Congressional District); New York (6th Congressional District) and Texas (12th Congressional District).

On October 31, the Commission published the names of Congressional campaigns involved in the 1984 general election that did not file a pre-general election report. In addition to a New Hampshire Senate campaign, 20 House campaigns (listed below) failed to meet the October 23 deadline.

State	Congressional District
American Samoa	--
Arizona	4th
California	31st
Florida	18th
Illinois	7th
Kansas	2nd
Kentucky	3rd
Louisiana	3rd
Maryland	3rd
Michigan	13th
New Jersey	7th
New York	6th
New York	21st
New York	12th
New York	7th
New York	5th
New York	4th
Ohio	11th
South Carolina	6th
Texas	12th

The election law requires the agency to publish the names of nonfiling candidates. Compliance actions against nonfilers are decided on a case-by-case basis. The law gives the Commission broad authority to initiate enforcement actions resulting from infractions of the law, including civil enforcement and imposition of civil penalties.

MUR 2081: Extension of Credit Beyond Normal Business Practice

This MUR, resolved through conciliation, was triggered by the sale of books by a candidate committee to a political action committee (PAC) controlled by the same candidate. The transaction, which involved the extension of credit beyond the normal business practice, resulted in an excessive contribution by the candidate committee to the PAC.

Complaint

The MUR was internally generated by the Commission in the normal course of carrying out its administrative responsibilities. A review of the PAC's quarterly report indicated receipt of some books from the candidate committee. The PAC reported the transaction as an in-kind contribution from the candidate committee and as a debt owed to the candidate committee. The debt remained unpaid for more than ten months.

General Counsel's Report

The Commission's investigation indicated that a candidate committee paid $23,336 for the printing of a book and subsequently gave many copies to a PAC controlled by the same candidate. The PAC reported the transaction as a $5,000 in-kind contribution from the candidate committee and as an $18,336 debt to the candidate committee for the remainder of the transaction. Subsequent reports filed by the PAC and the candidate committee indicated that the obligation remained unpaid with no evidence of any efforts by the candidate committee to collect the debt.

Under federal election law, a contribution is any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing an election for federal office. 2 U.S.C. §431(8)(A). Under the Commission's Regulations, extension of credit beyond normal business practice is considered a contribution. See 11 CFR 100.7(a)(4). The General Counsel regarded the debt as the extension of credit beyond normal business practice and, therefore, a contribution. Since the amount of the credit extension exceeded the contribution limit, the debt represented an excessive contribution. The General Counsel recommended, accordingly, that the Commission find reason to believe that:

- o The PAC had violated 2 U.S.C. §441a(f) by accepting an excessive contribution from the candidate committee;
- o The candidate committee, in turn, had violated 2 U.S.C. §441a(a)(1) by making an excessive contribution to the PAC; and
- o The candidate committee had violated 2 U.S.C. §434(b)(4)(G) by not reporting the book transaction until 10 months after it had occurred.

Commission Determination

The Commission voted to find reason to believe that both the PAC and the candidate committee had violated the Act, respectively, by accepting and making excessive contributions. Further, the Commission found reason to believe that the candidate committee had failed to file its report.

A conciliation agreement was concluded prior to the Commission's finding "probable cause to believe" the Act had been violated. In the agreement, the respondents each agreed to pay a civil penalty of $2,750.

COURT CASES

NEW LITIGATION

Segerblom v. FEC

Pursuant to 2 U.S.C. §437g(a)(8)(A), Mr. Richard Segerblom asks the court to declare that the FEC acted contrary to law by failing to act on his administrative complaint within 120 days after he filed it.* The complaint concerned potential violations of the election law by James Santini and the Santini for Senate Committee (the Committee), Mr. Santini's principal campaign committee for his 1982 Senate bid.

In the complaint, Mr. Segerblom claimed that the respondents had used contributions for Mr. Santini's general election campaign to pay expenses of his primary campaign. Mr. Segerblom further alleged that the Committee had fraudulently reported: 1) refunds of these general election contributions and 2) a zero balance for both the primary and general election accounts of the Committee.

Mr. Segerblom therefore asks the court to order the FEC to:

- o Complete an investigation of these alleged violations within 30 days; and
- o Issue certain discovery requests attached to the complaint.

U.S. District Court for the District of Columbia, Civil Action No. 86-2843, October 16, 1986.

continued

**Mr. Segerblom filed his original complaint with the FEC on March 28, 1986. On April 11, 1986, he filed a supplement to the complaint.*

FEC v. Hayes for Congress Committee

The FEC asks the court to declare that the Hayes for Congress Committee (the Committee) and the Committee's treasurer, James L. Wright, violated the election law by accepting excessive contributions and failing to fully disclose certain bank loans. (The Committee served as Mr. Charles Hayes' principal campaign committee for the 1983 special election held to fill an Illinois House seat.)

Specifically, the FEC asks the court to declare that the Committee and its treasurer violated section 441a(f) of the election law by accepting excessive contributions from:

- o Citizens Action Non-Partisan Political Action Federal Campaign Committee of the Illinois Public Action Council (CANPAC*); and
- o Endorsers of two bank loans.** (One of the endorsers had also made a direct contribution to the campaign in excess of the limits.)

The FEC further asks the court to:

- o Declare that the defendants failed to report fully the amount and nature of the two bank loans and a personal loan from the candidate;
- o Permanently enjoin the defendants from further violations of the election law; and
- o Assess a civil penalty against the defendants amounting to the greater of $5,000 per violation or an amount equal to 100 percent of the total violations.

U.S. District Court for the Northern District of Illinois, Civil Action No. 86C7865, October 16, 1986.

FEDERAL REGISTER

FEDERAL REGISTER NOTICE

Copies of this notice are available in the Public Records Office.

Notice	Title
1986-10	11 CFR Part 100, 106, 9001 through 9007 and 9031 through 9039: Public Financing of Presidential Primary and General Election Candidates; Announcement of Public Hearing (51 Fed. Reg. 41110, November 13, 1986)

**Since CANPAC did not have multicandidate committee status, it was only eligible to contribute up to $1,000 to the Committee.*

***An endorsement or guarantee of a loan, like a regular loan, counts as a contribution from the endorser or guarantor to the extent of his/her portion of the outstanding balance of the loan. 11 CFR 100.7(a)(1)(i)(C).*

STATISTICS

ACTIVITY OF MAJOR PARTIES' NATIONAL COMMITTEES

Figures released before the 1986 general election on the financial activity of the Republican and Democratic Parties' national committees* showed that the Republican national committees maintained a 5-1 lead over their Democratic counterparts in overall activity. However, in terms of support to candidates (both contributions and coordinated expenditures** on their behalf), the gap between the Republican and Democratic national committees had diminished. (See chart II on opposite page.)

From January 1, 1985, through October 15, 1986, Republican national committees reported receipts of $190.9 million and disbursements of $185.5 million.*** Their Democratic counterparts disclosed receipts and expenditures amounting to $37.7 million.

The national committees of each party had a much lower cash balance remaining in mid-October 1986 than in mid-October 1984. Republican national committees reported total remaining funds of $6.7 million, as compared with $14.9 million in 1984. Democratic committees reported a cash-on-hand balance of $754,516, as compared with the $3.3 million balance they reported for 1984.

Chart I below shows total receipts for each party's national committees. Chart II depicts the committees' support of 1986 Congressional candidates.

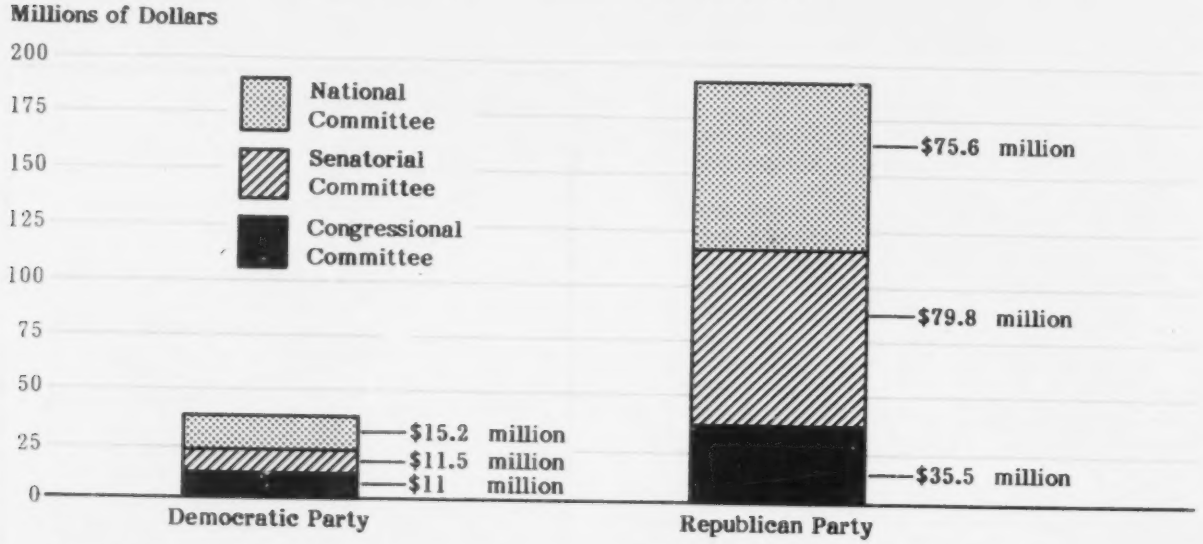
More detailed information may be obtained on the activity of each major party's national committees from the FEC's October 29, 1986, press release. For copies of the release, contact the FEC's Public Records Office by calling 376-3140 locally or, toll free, 800/424-9530.

**The Democratic Party's national committees are: DNC Services, the Democratic Senatorial Campaign Committee and the Democratic Congressional Campaign Committee. The Republican Party's national committees are: the Republican National Committee, the National Republican Senatorial Committee (NRSC) - Expenditures, the NRSC - Contributions, the National Republican Congressional Committee (NRCC) - Expenditures and the NRCC - Contributions.*

***Limited expenditures made by party committees on behalf of federal candidates in general elections. See 2 U.S.C. section 441a(d).*

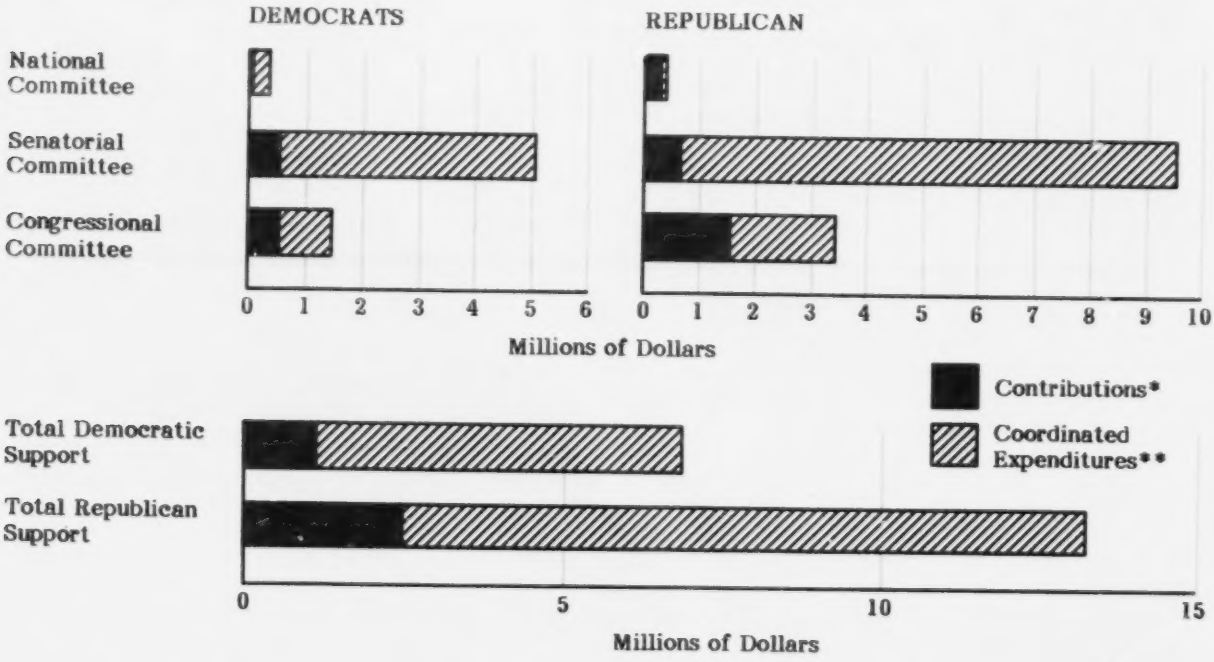
****These figures do not include activity for the NRCC - Expenditures between October 1 and 15, 1986.*

CHART I
RECEIPTS* OF NATIONAL PARTY COMMITTEES, 1/1/85 - 10/15/86



Includes total receipts minus transfers between each party's respective committees.

CHART II
NATIONAL PARTY SUPPORT OF FEDERAL CANDIDATES, 1/1/85 - 10/15/86



*Figures do not include contributions earmarked to candidates through national party committees.
**The Democratic National Committee made all its coordinated party expenditures for Walter Mondale's 1984 Presidential campaign.

800 LINE

JOINT FUNDRAISING: FURTHER CLARIFICATION

In last month's Record article on joint fundraising, the following footnote appeared:

> *PACs established by corporations and labor organizations (i.e., separate segregated funds) may not engage in joint fundraising; nor may unregistered committees sponsored by corporations and unions. 11 CFR 102.17(a)(3). Corporate and labor separate segregated funds may, however, raise funds through collecting agents, following the rules at 11 CFR 102.6(b).*

This statement does not suggest any recent change in Commission policy. Rather, the statement was intended to alert readers to the fact that a separate segregated fund which jointly raises funds with another person (for example, a federal PAC with an affiliated state PAC or a federal PAC with its parent organization) should be guided by the regulations at 11 CFR 102.6(b) -- the "collecting agent" regulations. These rules were written specifically to deal with issues unique to PACs established by corporations and labor organizations.

By contrast, the regulations contained in 11 CFR 102.17 -- referred to as the "joint fundraising" rules -- pertain to the joint solicitation of contributions by candidates, parties and other political committees.

In effect, then, two sections in the regulations pertain to joint activity with regard to raising funds. Section 102.6(b) treats joint activity involving a separate segregated fund, and section 102.17 refers to joint activity between other types of committees, including candidate and party committees.

PUBLIC APPEARANCES

12/2 and 1/27	University of Southern California Washington Public Affairs Center Washington, D.C. Vice Chairman John Warren McGarry Patricia Klein, Public Affairs Specialist
12/4	County Clerks Association of California Sacramento, California Penelope Bonsall, Director, National Clearinghouse on Election Administration
12/3-5	Council on Government Ethics Laws 8th Annual Conference Hartford, Connecticut Vice Chairman John Warren McGarry Charles N. Steele, General Counsel Lawrence Noble, Deputy General Counsel Kent Cooper, Assistant Staff Director for Public Disclosure Louise Wides, Assistant Staff Director for Information Services

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INTRODUCTION

This special supplement to the FEC Record explains when and how to itemize receipts. Covering the basics, this supplement focuses primarily on itemizing contributions from individuals. The material is not exhaustive in that it does not include contributions from partnerships, earmarked contributions, loans or loan endorsements. Proper itemization for these types of receipts is shown in the sample forms sections of the FEC Campaign Guides. Also, please remember that FEC staff can help answer your reporting questions. Call toll-free 800/424-9530 or 202/376-3120.*

The Detailed Summary Page of Form 3 (used by authorized committees of candidates) and Form 3X (used by PACs and party committees) lists several catergories of receipts.** For each category, the committee must disclose the total for the current reporting period and the year-to-date total. In addition to reporting the totals for each category, a committee often has to itemize individual receipts by providing supplemental information on supporting Schedule A's.

**The Commission is currently drafting regulations which provide new rules for itemizing refunded, redesignated and reattributed contributions. The Record will summarize any changes adopted by the Commission and will announce their effective date.*

***Portions of this supplement do not apply to Presidential committees, which file on Form 3P.*

Y3.EL 2/3:

WHEN TO ITEMIZE RECEIPTS

Under most categories of receipts, each transaction must be itemized, regardless of its amount. Under certain categories of receipts, however, a receipt must be itemized only if it exceeds $200 or if the receipt, when added to other receipts from the same source, exceeds $200 in a calendar year. The $200 aggregation threshold is further explained later in this supplement.

Figure 1 shows when committees must itemize individual receipts.

FIGURE 1: When Itemization of Receipts Is Required

KEY

The symbols on the reporting forms represent the following information:

◀ Within each category marked by this symbol, the committee must itemize any receipt which: 1) exceeds $200 or 2) when added to other receipts from the same source, aggregates over $200 in a calendar year.

▷ Within each category marked by this symbol, the committee must itemize every receipt, regardless of amount.

FIGURE 1A: Authorized Candidate Committees FEC Form 3

DETAILED SUMMARY PAGE
of Receipts and Disbursements
(Page 2, FEC FORM 3)

Name of Committee (in Full)

Report Covering the Period: From: To:

I. RECEIPTS	COLUMN A Total This Period	COLUMN B Calendar Year-to-Date	
11. CONTRIBUTIONS (other than loans) FROM:			
◀ (a) Individuals/Persons Other Than Political Committees			11 (a)
(Memo Entry Unitemized $ _____)			
▷ (b) Political Party Committees			11 (b)
▷ (c) Other Political Committees			11 (c)
◀ (d) The Candidate			11 (d)
(e) TOTAL CONTRIBUTIONS (other than loans (add 11(a), 11(b), 11(c) and 11(d).			11 (e)
▷ 12. TRANSFERS FROM OTHER AUTHORIZED COMMITTEES			12
13. LOANS:			
▷ (a) Made or Guaranteed by the Candidate			13 (a)
▷ (b) All Other Loans			13 (b)
(c) TOTAL LOANS (add 13 (a) and 13 (b))			13 (c)
◀ 14. OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebates, etc.)			14
◀ 15. OTHER RECEIPTS (Dividends, Interest, etc.)			15
16. TOTAL RECEIPTS (add 11 (e), 12, 13 (c), 14 and 15)			16

FIGURE 1B: PACs and Party Committees
FEC Form 3X

DETAILED SUMMARY PAGE
of Receipts and Disbursements
(Page 2, FEC FORM 3X)

Name of Committee (in Full)

Report Covering the Period
From: _____ To: _____

	COLUMN A Total This Period	COLUMN B Calendar Year-To-Date	
I. RECEIPTS			
11. CONTRIBUTIONS (other than loans) FROM:			
(a) Individuals/Persons Other Than Political Committees			11(a)
(Memo Entry Unitemized $_____)			
(b) Political Party Committees			11(b)
(c) Other Political Committees			11(c)
(d) TOTAL CONTRIBUTIONS (other than loans) (add 11(a), 11(b) and 11(c))			11(d)
12. TRANSFERS FROM AFFILIATED/OTHER PARTY COMMITTEES			12
13. ALL LOANS RECEIVED			13
14. LOAN REPAYMENTS RECEIVED			14
15. OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebates, etc.)			15
16. REFUNDS OF CONTRIBUTIONS MADE TO FEDERAL CANDIDATES AND OTHER POLITICAL COMMITTEES*			16
17. OTHER RECEIPTS (Dividends, Interest, etc.)			17
18. TOTAL RECEIPTS (Add 11(d), 12, 13, 14, 15, 16 and 17)			18

**Line 16 (Form 3X) should not reflect the amount of a refunded contribution if the committee's original check was returned uncashed or never deposited. See instructions for line 16 on the reverse side of the Detailed Summary Page.*

HOW TO ITEMIZE RECEIPTS

Committees itemize individual receipts by reporting specific information on a Schedule A. That form calls for the following recordkeeping information:

- o Name of the source of the receipt
- o Address of source
- o Employer of source (if source is individual)
- o Occupation of source (if source is individual)
- o Date of receipt
- o Amount of receipt
- o Aggregate year-to-date total of receipts from each source
- o Election to which receipt is attributable (required only for candidate committees)

Figures 2 and 3 demonstrate the correct and incorrect ways of completing Schedule A. The circled numbers on the forms correspond to the numbered explanatory paragraphs which follow.

FIGURE 2: Correct Entry on Schedule A for Contributions from Individuals

SCHEDULE A — **ITEMIZED RECEIPTS**

Use separate schedule(s) for each category of the Detailed Summary Page — PAGE 3 OF 3 (1) — FOR LINE NUMBER 11(a) (2)

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

(3) NAME OF COMMITTEE (in Full): Sam Jones for Congress '86 (C00000001)

(4) A. Full Name, Mailing Address and ZIP Code	Name of Employer (6)	Date (month, day, year)	Amount of Each Receipt this Period
Mark B. Smithers 4103 Main St. Los Angeles, CA 90031	Acme Corp.	6/18/86 (9)	$250.00 (10)
(5) Receipt For: ☐ Primary ☒ General ☐ Other (specify):	Occupation: secretary (7)		
	Aggregate Year-to-Date: $300.00 (8)		

SUBTOTAL of Receipts This Page (optional)	$1,000.00 (11)
TOTAL This Period (last page this line number only)	$3,000.00 (12)

(1) This entry shows the number and order of Schedule A pages that pertain to a particular category of receipts — in this case, "contributions from individuals/persons other than political committees" (line 11(a) on the Detailed Summary Page). When only one page is needed to itemize the receipts for a given line number, the entry should read "Page 1 of 1." The above example shows that this is the last of three Schedule A pages itemizing contributions from individuals.

(2) The line number from the Detailed Summary Page is entered here to show which category of receipts is itemized on this schedule. A committee uses a separate Schedule A for each category. Here, line 11(a) is the correct entry for the category.

(3) The committee's full name is shown here. Although not required, the committee's identification number provides helpful information.

④ The full name and mailing address of the source of the receipt are entered in this block. If the source is an individual, the full name includes the first and last names and, if available, the middle initial. The individual's home address, rather than business address, should be used. A post office box is acceptable.

⑤ Only authorized committees of candidates complete this box on Schedule A; it does not apply to PACs or party committees. An authorized committee must attribute each receipt to a particular election. If the receipt is attributable to an election other than the current primary or general election, then the "Other" box should be checked and the year and type of election specified (for example, "1984 General" for a contribution designated to retire debts from that election).

⑥ The employer is included only if the source of the receipt is an individual. "Employer" means the organization or person who employs the individual, not the name of a supervisor. "Self-employed" should be entered when applicable. If the individual does not have an employer, this box is left blank, but the occupation block is filled in (see below).

⑦ Again, the occupation block is completed only if the source of the receipt is an individual. "Occupation" means the principal job title or position the individual holds. If the individual is self-employed, the occupation should nevertheless be entered in this space. The occupation block is also used to note the situation of an individual who is not employed -- for example, "homemaker," "housewife," "retired" or "unemployed."

⑧ The "Aggregate Year-to-Date" total equals the total amount that the person has given to the committee for the calendar year. Even if the aggregate year-to-date total is the same as the amount reported in box #10, it must still be entered.

⑨ The date of receipt is the date the treasurer or agent of the committee obtains possession of the receipt. This date may not necessarily be the same as the date recorded on the check or the date of deposit.

⑩ The amount of the receipt is entered here.

⑪ The "Subtotal of Receipts This Page" is an optional entry. It reflects the total receipts itemized on one page and is used when more than one page is needed to itemize receipts within a category.

⑫ The "Total This Period" is the total of all itemized receipts, within one category, which have been received during the current reporting period. If more than one page is needed to itemize the receipts for a particular line number, the total appears on the last page used. This total of itemized receipts is added to any unitemized receipts for the same category, and the grand total is entered on the corresponding line of the Detailed Summary Page, Column A.

FIGURE 3: Incorrect Entries on Schedule A for Contributions from Individuals

SCHEDULE A — ITEMIZED RECEIPTS

Use separate schedule(s) for each category of the Detailed Summary Page

PAGE 1 OF 3

FOR LINE NUMBER 11(a)

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full): Sam Jones for Congress '86 (C00000001)

	A. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
(1)(2)(3)	J. Doe Oak St. Chicago, IL	Self-employed	6/86 (7)	$300.00
(4)	Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Occupation (5)		
		Aggregate Year-to-Date > $ (6)		
(8)	B. Full Name, Mailing Address and ZIP Code County Party Committee P.O. Box 8344 Lone Wells, MO 65067	Name of Employer	Date (month, day, year) 6/18/86	Amount of Each Receipt this Period $100.00
	Receipt For: ☐ Primary ☒ General ☐ Other (specify):	Occupation		
		Aggregate Year-to-Date > $1,000.00		

(1) This is not a full name. The contributor's first name should be spelled out and the middle initial provided, if available.

(2) The street number is missing.

(3) The zip code is missing.

(4) This box should be filled in because the reporting committee is an authorized candidate committee. (PACs and party committees do not complete this box on Schedule A.)

(5) The occupation should be filled in, even though the contributor is self-employed (for example, dentist).

(6) The aggregate year-to-date total is missing; it must be filled in even if the amount is the same as the receipt for the reporting period (in this case, $300).

(7) The date is incomplete. It must include the day of the month (for example, 6/5/86).

(8) This receipt does not belong on this schedule because it is not a "contribution from an individual/person other than a political committee" (line 11(a)). Instead, it should be itemized on a Schedule A for "contributions from political party committees" (line 11(b)). (A party committee would report the receipt on a Schedule A for line 12 -- "transfers from affiliated/other party committees.")

HOW TO AGGREGATE RECEIPTS

Under certain categories of receipts, as illustrated in Figure 1, a receipt is itemized if it exceeds $200 or if, when added to other receipts received from the same source during the calendar year, it exceeds $200. Thus, for purposes of reporting, committees must keep track of receipts from the same person, aggregate them and itemize them once the $200 threshold is crossed.* The examples that follow show how to aggregate receipts correctly.

EXAMPLE A: TWO REPORTING PERIODS

This first example illustrates how a committee applies the aggregation rule to contributions received from one individual during two reporting periods. (The same approach should be taken with regard to receipts that fall under other categories requiring aggregation. See Figure 1.)

First Quarter Contribution

In January 1986, John A. Smith contributes $200 to Sam Jones for Congress Committee '86. This is the only contribution Mr. Smith makes to the committee during the first quarter of the year (January through March 1986). On its first quarter report, the committee does not itemize Mr. Smith's contribution since it does not exceed or aggregate over $200. It is merely included in the total of unitemized contributions, which is reported on the Memo Entry line of 11(a) on the Detailed Summary Page.

FIGURE 4: First Quarter Contributions Summary Totals

DETAILED SUMMARY PAGE
of Receipts and Disbursements
(Page 2, FEC FORM 3)

Name of Committee (in Full)	Report Covering the Period:	
Sam Jones for Congress '86 (C00000001)	From: January 1	To: March 31, 1986
I. RECEIPTS	COLUMN A Total This Period	COLUMN B Calendar Year-to-Date
11. CONTRIBUTIONS (other than loans) FROM:		
(a) Individuals/Persons Other Than Political Committees	$10,000.00	$10,000.00 (11 (a))
(Memo Entry Unitemized $ 4,000.00)		

Mr. Smith's $200 contribution included in total unitemized contributions.

Total of itemized and unitemized contributions: $6,000 itemized (Schedule A total) plus $4,000 unitemized (as shown on Memo Entry line).

In first report of year, Column B year-to-date total the same as Column A total for reporting period.

**This material focuses on how to aggregate receipts during a calendar year for reporting purposes. Note, however, that authorized committees of candidates must also aggregate contributions received for each election in order to keep track of contribution limits. See Example C.*

Example A continued

Second Quarter Contribution

Mr. Smith contributes another $50 to the committee in June 1986, bringing his aggregate contribution total for 1986 to $250. Because the total has now exceeded $200, the committee must itemize the $50 contribution in its second quarter report (covering April through June). Any further contributions Mr. Smith makes to Sam Jones must be itemized regardless of amount.

1/86 (1st quarter)	$200	Not Itemized
6/86 (2nd quarter)	50	Itemized ($200 aggregate threshold exceeded)
	$250	Aggregate Total

FIGURE 5: Second Quarter Itemized Contribution

SCHEDULE A — ITEMIZED RECEIPTS

Use separate schedule(s) for each category of the Detailed Summary Page

PAGE 3 OF 3

FOR LINE NUMBER 11(a)

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)
Sam Jones for Congress '86 (C00000001)

G. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
John A. Smith 933 Biltmore Ave. Asheville, NC 28803	St. Joseph's Hospital	6/28/86	$50.00
Receipt For: ☒ Primary ☐ General ☐ Other (specify):	Occupation: X-ray technician		
	Aggregate Year-to-Date > $250.00		

TOTAL This Period (last page this line number only) $3,000.00

FIGURE 6: Second Quarter Contributions Summary Totals

DETAILED SUMMARY PAGE
of Receipts and Disbursements
(Page 2, FEC FORM 3)

Name of Committee (In Full)
Sam Jones for Congress '86 (C00000001)

Report Covering the Period: From: April 1 To: June 30, 1986

I. RECEIPTS	COLUMN A Total This Period	COLUMN B Calendar Year-to-Date
11. CONTRIBUTIONS (other than loans) FROM:		
(a) Individuals/Persons Other Than Political Committees	$10,000.00	$20,000.00
(Memo Entry Unitemized $ 7,000.00)		

11 (a)

Mr. Smith's $50 contribution not included in total unitemized contributions since it had to be itemized on Schedule A.

Column B year-to-date total equals Column B total from previous report ($10,000) plus Column A total from current report ($10,000).

Total of itemized contributions and unitemized contributions: $3,000 itemized (Schedule A total) plus $7,000 unitemized (Memo Entry line).

EXAMPLE B: ONE REPORTING PERIOD

A committee must also aggregate receipts received within the same reporting period. For example, during the first quarter of 1986, Sam Jones for Congress '86 receives the following contributions from Myrtle R. Brown:

January 14	$150	Not Itemized
February 7	$ 50	Not Itemized ($200 aggregate total)
March 3	$ 10	Itemized ($200 aggregate threshold now exceeded)
	$210	Aggregate Total

The committee does not have to itemize either the January contribution or the February contribution because their aggregate total does not exceed $200. Ms. Brown's $10 March contribution, however, causes her 1986 contributions to Sam Jones to exceed the $200 aggregate threshold for itemization (they now total $210). On its first quarter report, the committee therefore itemizes the $10 contribution, reporting the aggregate year-to-date total as $210. Any further contributions Ms. Brown makes to Sam Jones during 1986 must be itemized since her contributions have now exceeded the itemization threshold.

FIGURE 7: Contributions Aggregated Within One Reporting Period

SCHEDULE A **ITEMIZED RECEIPTS**

Use separate schedule(s) for each category of the Detailed Summary Page

PAGE 3 OF 14

FOR LINE NUMBER 11(a)

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (in Full)
Sam Jones for Congress '86 (C00000001)

A. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
Myrtle R. Brown 6103 Fairhaven Rd. Davenport, IA 52807	Davenport Public Library	3/3/86	$10.00
Receipt For: ☒ Primary ☐ General ☐ Other (specify):	Occupation: librarian		
	Aggregate Year-to-Date > $ 210.00		

Only authorized committees of candidates complete the election designation box on Schedule A; it does not apply to PACs or party committees.

EXAMPLE C: TWO CALENDAR YEARS

Contributions to candidates are subject to a per-election limit and are aggregated on that basis for purposes of monitoring contribution limits. However, when reporting contributions received, an authorized candidate committee aggregates contributions on a yearly basis, as explained below.

1985 Year-End Contribution

In December 1985, Raymond E. Doe makes his first contribution to Sam Jones for Congress '86 -- a $600 check. A contribution automatically applies to the limit for the candidate's next election (unless the contributor makes a written designation that the contribution be applied to another election). Therefore, Mr. Doe's contribution, which is undesignated, applies to his $1,000 limit for Sam Jones' primary, to be held in August 1986.

The committee must itemize the contribution on its 1985 year-end report because it exceeds $200. The committee checks "Primary" in the election designation box on Schedule A. It reports the aggregate year-to-date total as $600, since this is the only contribution Mr. Doe made in 1985.

FIGURE 8: 1985 Year-End Report Itemized Contribution

SCHEDULE A — ITEMIZED RECEIPTS

Use separate schedule(s) for each category of the Detailed Summary Page

PAGE 2 OF 2

FOR LINE NUMBER 11(a)

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)
Sam Jones for Congress '86 (C00000001)

A. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
Raymond E. Doe 3767 Randolf Dr. Boise, ID 83704	Century Hotel	12/6/85	$600.00
Receipt For: ☒ Primary ☐ General ☐ Other (specify):	Occupation: chef		
	Aggregate Year-to-Date > $ 600.00		

1986 First Quarter
No Contributions from Mr. Doe

Mr. Doe does not contribute to the committee during the first three months of 1986. The committee, then, does not report any receipts from him.

1986 Second Quarter Contributions

In April 1986, Mr. Doe makes another undesignated contribution of $400, which automatically applies to the candidate's August primary. Mr. Doe's primary contributions now total $1,000, the legal limit ($600 in December 1985 plus the current $400 contribution).

In June of the second quarter, Mr. Doe again contributes to the committee, this time making a $50 contribution. He designates the contribution for the general election by writing a note on the check: "For 1986 General Election." (If he had not made a written designation, the contribution would have been attributable to the August 1986 primary and would have therefore been an excessive contribution.)

In its second quarter report, the committee itemizes Mr. Doe's $400 April contribution since it exceeds the $200 itemization threshold. The committee checks "Primary" in the election designation box on Schedule A. The aggregate year-to-date total is the same as the amount of the contribution ($400) because this is the first contribution Mr. Doe made in 1986. Note that this total does not include the $600 he contributed in 1985.

Since the aggregation threshold has been exceeded, the committee must also itemize the $50 June contribution, reporting the aggregate year-to-date total as $450. In this case, the committee checks "General" in the election designation box.

FIGURE 9: 1986 Second Quarter Report Itemized Contributions

SCHEDULE A — ITEMIZED RECEIPTS

Use separate schedule(s) for each category of the Detailed Summary Page

PAGE 2 OF 3

FOR LINE NUMBER 11(a)

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NAME OF COMMITTEE (in Full)
Sam Jones for Congress '86 (C00000001)

A. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
Raymond E. Doe 3767 Randolf Dr. Boise, ID 83704	Century Hotel	4/23/86	$400.00
Receipt For: ☒ Primary ☐ General ☐ Other (specify):	Occupation: Chef		
	Aggregate Year-to-Date > $ 400.00 *		
B. Full Name, Mailing Address and ZIP Code	**Name of Employer**	**Date (month, day, year)**	**Amount of Each Receipt this Period**
Same as above.		6/3/86	$50.00
Receipt For: ☐ Primary ☒ General ☐ Other (specify):	Occupation		
	Aggregate Year-to-Date > $ 450.00 **		

Note that the aggregate year-to-date total for this entry does not include the $600 Mr. Doe contributed in December 1985.

***Note that this aggregate year-to-date total includes both primary and general election contributions.*

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EXAMPLE D: IN-KIND CONTRIBUTIONS

In-kind contributions are services or goods offered free or at less than the usual charge. (The amount of an in-kind contribution equals the usual and normal charge for the item or service minus the amount paid by the committee, if any.) A committee receiving an in-kind contribution reports the amount both as a contribution and as an operating expenditure, regardless of whether the contribution is itemized. This is necessary because the receipt of an in-kind contribution does not represent cash. The committee's cash-on-hand balance would be inflated if the committee did not also report the in-kind contribution as a disbursement, thereby subtracting the value from its cash-on-hand.

When determining when to itemize an in-kind contribution on Schedule A, a committee should consider it the same as a monetary contribution. In-kind contributions from committees, like monetary contributions, must be itemized regardless of amount. In-kind contributions from "individuals/persons other than political committees" (line 11(a) of the Detailed Summary Page) are subject to the same $200 aggregation threshold as monetary contributions. When aggregating contributions for line 11(a), a committee itemizes the receipt when a donor's monetary and in-kind contributions exceed the $200 threshold. Although in-kind contributions are again reported as operating expenditures, a committee must itemize an in-kind contribution on a Schedule B for operating expenditures only if the committee had to itemize the amount as a contribution on Schedule A.

For example, Sam Jones for Congress '86 receives in-kind and monetary contributions from two donors.

Robert K. Green

Jan. Check	$100	Not Itemized
Feb. In-Kind	125	Itemized ($200 aggregate threshold exceeded)
	$225	Aggregate Total

Linda G. White

Feb. In-Kind	$ 50	Not Itemized
Mar. Check	200	Itemized ($200 aggregate threshold exceeded)
	$250	Aggregate Total

On its first quarter report for 1986, the committee does not have to itemize Mr. Green's $100 check (see Figure 10) but must itemize his $125 in-kind contribution since his aggregate year-to-date contributions now total $225 ($100 + $125). Because the committee must itemize the $125 in-kind contribution on a Schedule A for contributions, it must also itemize the in-kind contribution on a Schedule B for operating expenditures. See Figures 11 and 12.

On the other hand, Ms. White's $50 in-kind contribution, since it is under $200, does not have to be itemized on Schedule A. Therefore, the committee does not itemize it on a Schedule B for operating expenditures. Nevertheless, the committee includes the $50 in its total contributions and, again, in its total operating expenditures for the reporting period (Detailed Summary Page). See Figure 10. Ms. White's $200 check, however, must be itemized on Schedule A since her contributions now aggregate over $200 ($50 + $200). See Figure 11.

FIGURE 10: In-Kind Contributions Included in Summary Totals

DETAILED SUMMARY PAGE
of Receipts and Disbursements
(Page 2, FEC FORM 3)

Name of Committee (in Full): Sam Jones for Congress '86 (C00000001)

Report Covering the Period: From: January 1 To: March 31, 1986

	COLUMN A Total This Period	COLUMN B Calendar Year-to-Date	
I. RECEIPTS			
11. CONTRIBUTIONS (other than loans) FROM:			
(a) Individuals/Persons Other Than Political Committees (Memo Entry Unitemized $ 4,000.00)	$10,000.00	$10,000.00	11 (a)
II. DISBURSEMENTS			
17. OPERATING EXPENDITURES*	$8,000.00	$8,000.00	17

Mr. Green's $100 check and Ms. White's $50 in-kind contribution are included with other unitemized contributions.

Total of itemized contributions ($6,000) plus unitemized contributions ($4,000).

Total of operating expenditures itemized on Schedule B ($5,000, including Mr. Green's $125 in-kind contribution) plus unitemized operating expenditures ($3,000, including Ms. White's $50 in-kind contribution).

Example D continued

**Line 17 is the line number for operating expenditures on Form 3. The corresponding line number on Form 3X is line 19.*

FIGURE 11: In-Kind Contribution Itemized as Receipt on Schedule A

SCHEDULE A — ITEMIZED RECEIPTS

Use separate schedule(s) for each category of the Detailed Summary Page

PAGE 4 OF 4

FOR LINE NUMBER 11(a)

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NAME OF COMMITTEE (In Full): Sam Jones for Congress '86 (C00000001)

A. Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation / Aggregate Year-to-Date	Date (month, day, year)	Amount of Each Receipt this Period
Robert K. Green 4298 Morningside Ave. Dallas, TX 75206 Receipt For: [X] Primary [ ] General [ ] Other (specify):	Lonestar Limousine Service Occupation: driver Aggregate Year-to-Date > $225.00 *	2/28/86	$125.00 in-kind (typewriter)
B. Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation / Aggregate Year-to-Date	Date (month, day, year)	Amount of Each Receipt this Period
Linda G. White 305 University Ave. Madison, WI 53702 Receipt For: [X] Primary [ ] General [ ] Other (specify):	Occupation: retired Aggregate Year-to-Date > $250.00 *	3/5/86	$200.00

TOTAL This Period (last page this line number only) $6,000.00

FIGURE 12: In-Kind Contribution Itemized as Disbursement on Schedule B**

SCHEDULE B — ITEMIZED DISBURSEMENTS

Use separate schedule(s) for each category of the Detailed Summary Page

PAGE 2 OF 2

FOR LINE NUMBER 17***

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NAME OF COMMITTEE (In Full): Sam Jones for Congress '86 (C00000001)

A. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement / Disbursement for	Date (month, day, year)	Amount of Each Disbursement This Period
Robert K. Green 4298 Morningside Ave. Dallas, TX 75206	typewriter Disbursement for: [X] Primary [ ] General [ ] Other (specify)	2/28/86	$125.00 in-kind received

TOTAL This Period (last page this line number only) $5,000.00

**Note that Mr. Green's $100 check (January) and Ms. White's $50 in-kind contribution (February) are not itemized but are included in the aggregate year-to-date totals.*

***Mr. Green's in-kind contribution, because it was itemized on Schedule A, is also itemized on a Schedule B for operating expenditures. Ms. White's $50 in-kind contribution, which did not have to be itemized on Schedule A, is not itemized on Schedule B.*

****Line 17 is the line number for operating expenditures on Form 3. The corresponding line number on Form 3X is line 19.*

EXAMPLE E: PAYROLL DEDUCTIONS

Some corporate and labor PACs receive contributions through payroll deductions. There are special rules for itemizing such contributions in order to make reporting a little easier. Once an individual's $200 aggregate threshold is exceeded, triggering itemization, the PAC does not have to separately itemize each contribution collected from that donor during the reporting period. Instead, the PAC may simply disclose on Schedule A the total amount of contributions deducted from the individual's paychecks during the reporting period and the amount deducted per pay period. Of course, the other information required on Schedule A must also be completed.

First Quarter

For example, George L. Wilson, an Acme executive, has $60 deducted from his monthly paycheck as a contribution to Acme Inc. PAC. The PAC's first quarter report for 1986 would not itemize Mr. Wilson's contributions since the aggregate total does not exceed $200.

January	$ 60	
February	60	
March	60	
	$180	Aggregate Total

Second Quarter

On its second quarter report, however, the PAC would have to itemize Mr. Wilson's contributions for April through June.

	$180	First Quarter Aggregate Total
April	60	($200 aggregate threshold exceeded)
May	60	
June	60	
	$360	Aggregate Total

FIGURE 13: Itemized Payroll Deductions Second Quarter Report

SCHEDULE A — ITEMIZED RECEIPTS

Use separate schedule(s) for each category of the Detailed Summary Page

PAGE 1 OF 3

FOR LINE NUMBER 11(a)

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NAME OF COMMITTEE (in Full)
Acme Inc. Political Action Committee (C00000003)

A. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
George L. Wilson 478 Pinehurst St. Manchester, NH 03103	Acme Inc. Occupation: Vice President of Sales	payroll deduction	$180.00 ($60 per month)
Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Aggregate Year-to-Date > $360.00		

PACs and party committees do not complete the election designation box on Schedule A; it applies only to authorized committees of candidates.

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REPORTING SUPPLEMENT

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FEDERAL ELECTION COMMISSION

RECORD

March 1986 999 E Street NW Washington DC 20463 Volume 12

This special statistical supplement to the FEC Record presents a graphic summary of campaign finance activity for the 1983-84 federal election cycle. Information depicted in the charts represents final figures on the campaign finance activity of: House and Senate candidates, independent spenders, party committees and political action committees (PACs). The graphs cover activity between January 1, 1983, and December 31, 1984; the information has been adjusted for transfers among affiliated committees. More detailed information may be obtained from the five-volume study, FEC Reports on Financial Activity, 1983-84, Final Report. The study may be purchased at $15 per volume from the FEC.

The graphs also present preliminary information on the financial activity of Presidential primary campaigns. The final report for these campaigns will provide a detailed account of their activity.

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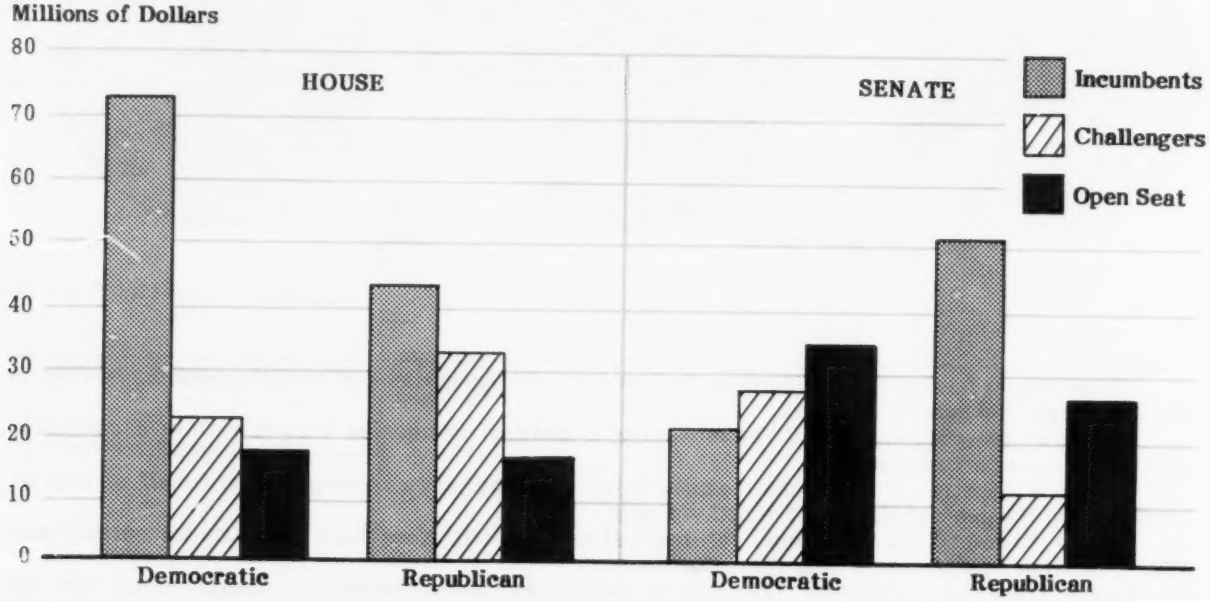
DEPOSITORY ITEM

HOUSE AND SENATE CANDIDATES

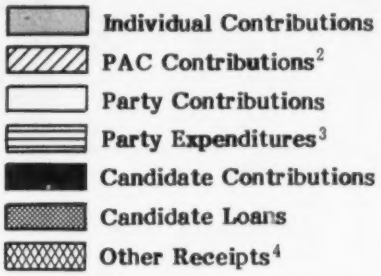
CHART I
SPENDING BY HOUSE AND SENATE CANDIDATES,[1] 1983-84



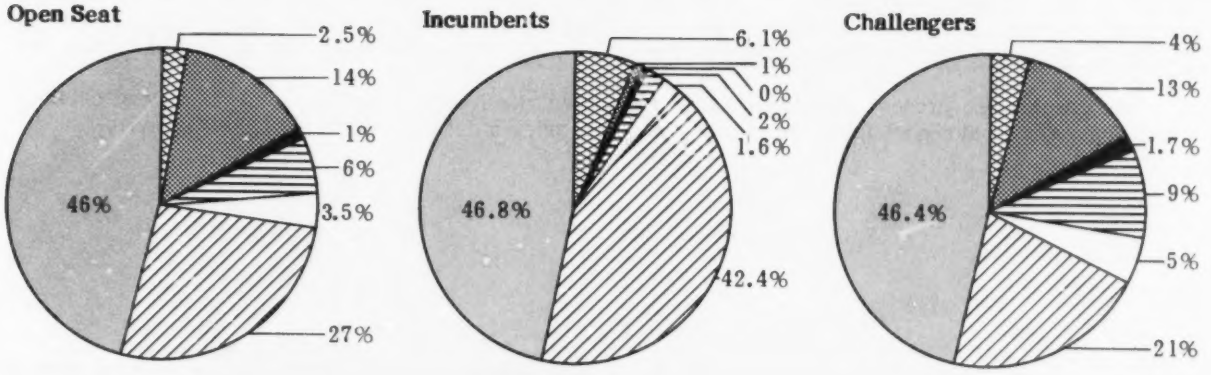
[1] *Includes spending by House and Senate candidates for 1984 or a future election or for retiring debts of former elections.*

Y3.EL 2/3:

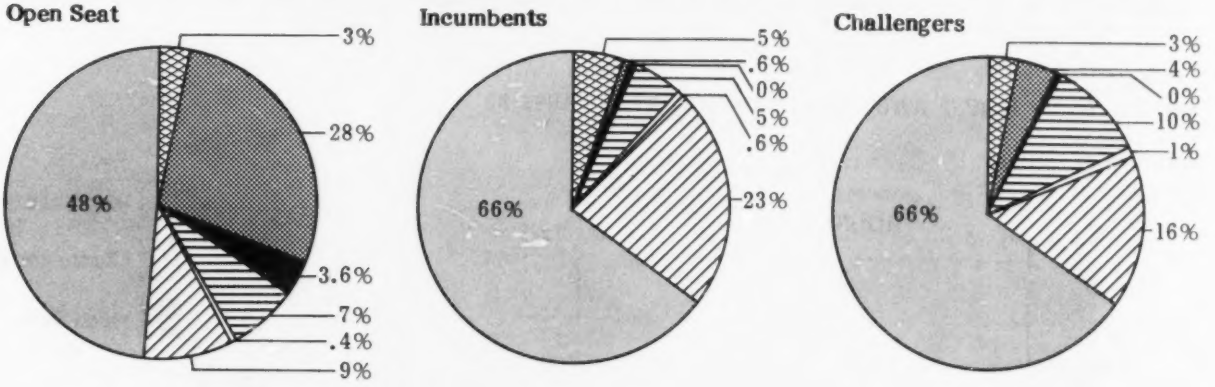
CHART II
SOURCES OF FUNDING,[1] 1983-84



HOUSE CANDIDATES



SENATE CANDIDATES[5]



[1]*Chart covers funding for all elections (primary, runoff and general) of those candidates running in the November 1984 general election.*

[2]*A "PAC" (or political action committee) is a political committee that is neither a candidate committee nor a party committee.*

[3]*"Party Expenditures" are limited expenditures made by party committees on behalf of federal candidates in the general election. 2 U.S.C. 441a(d).*

[4]*"Other Receipts" include loans, rebates, refunds, contributions from unregistered entities and other campaign committees, interest and dividends.*

[5]*Since there are relatively few Senate candidates, total figures on Senate races may be significantly affected by the activity of a single campaign. For example, a West Virginia candidate's loans to his campaign and the North Carolina candidates' large proportion of contributions from individuals have had significant impact on the overall activity depicted in these charts.*

INDEPENDENT EXPENDITURES

CHART III
INDEPENDENT EXPENDITURES[1] IN CONGRESSIONAL RACES, 1983-84

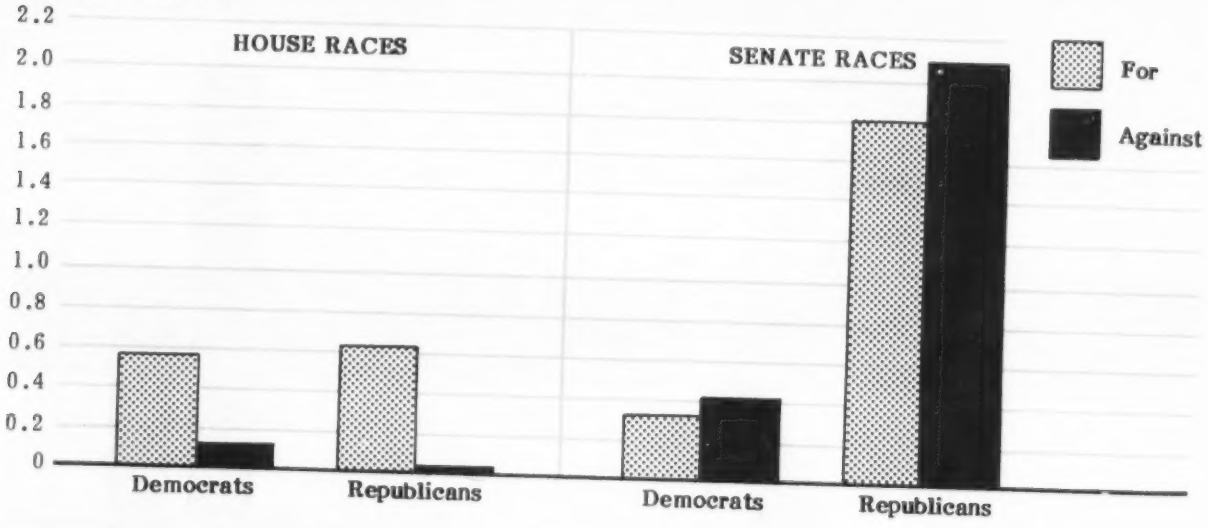
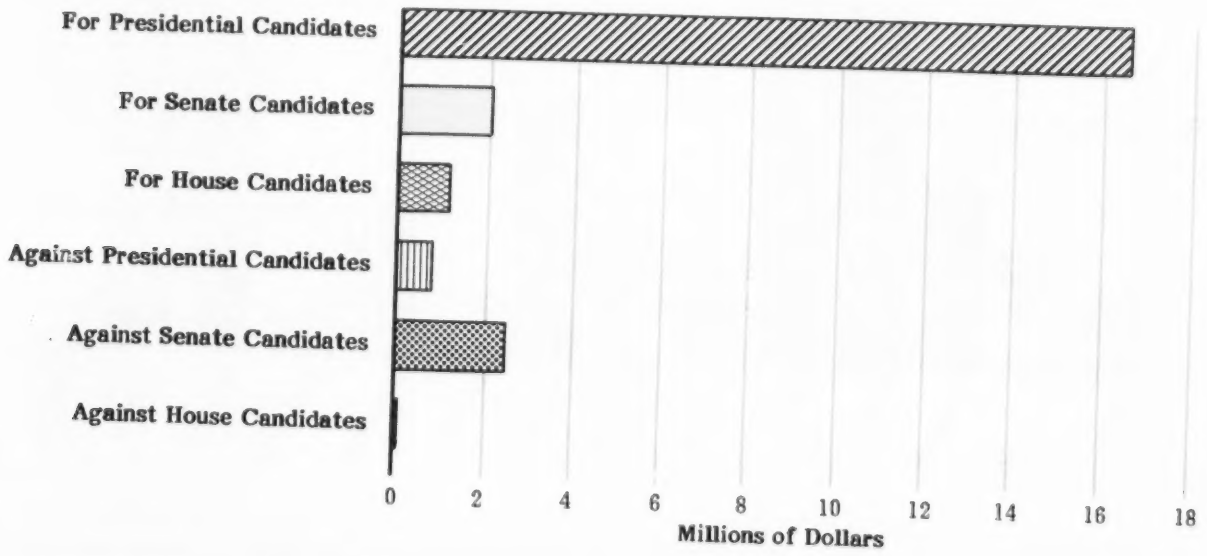


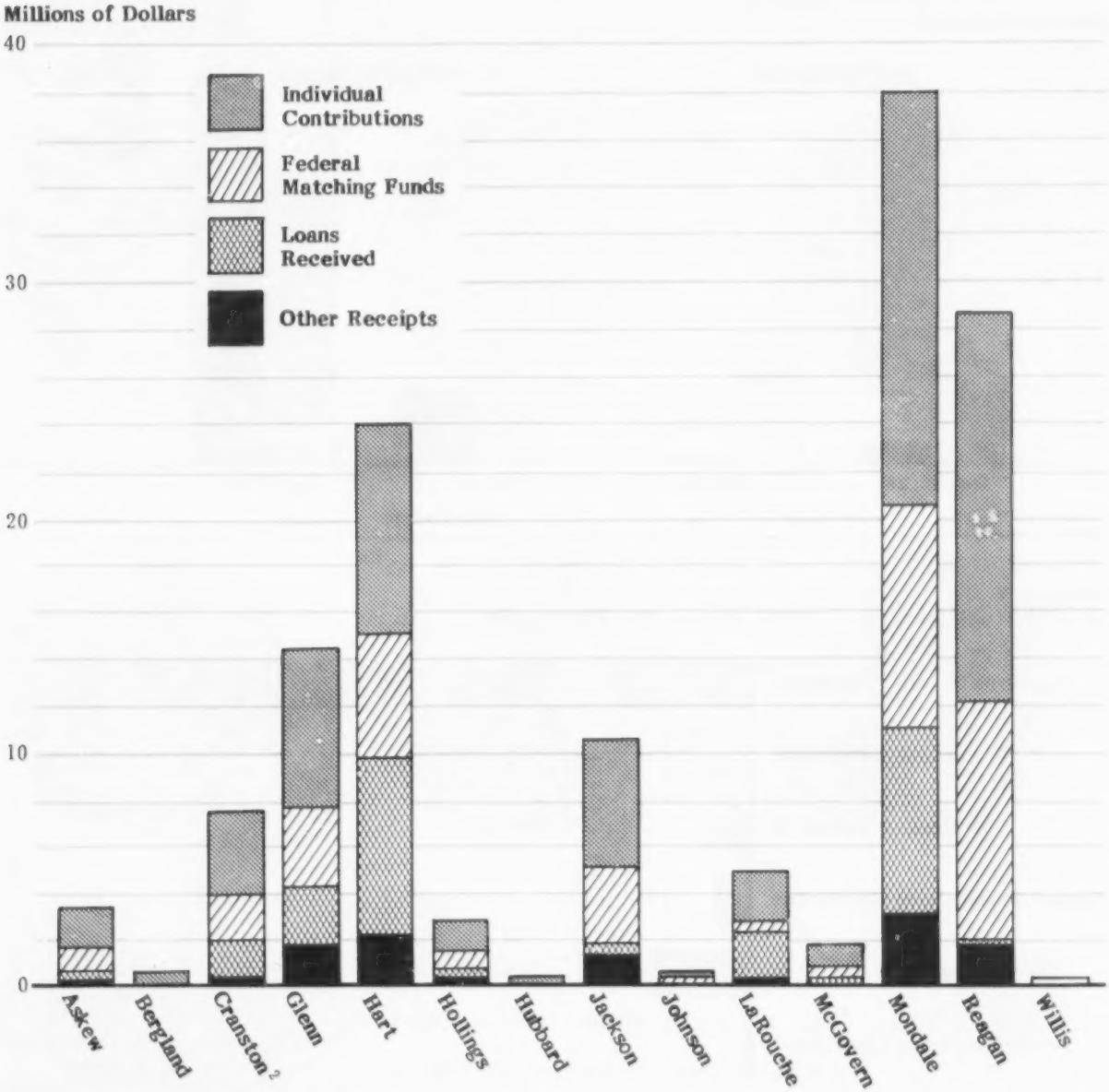
CHART IV
INDEPENDENT EXPENDITURES[1] IN ALL RACES, 1983-84



[1]*Under the federal election law, an independent expenditure is an expenditure for a communication expressly advocating the election or defeat of a clearly identified candidate. The expenditure must be made without cooperation or consultation with the candidate or his/her campaign.*

PRESIDENTIAL FUNDING

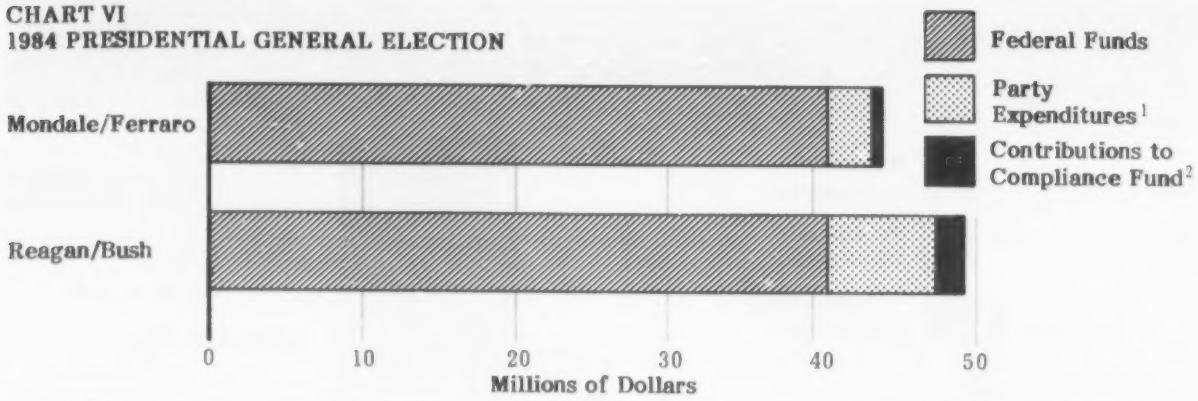
CHART V
RECEIPTS[1] OF PRESIDENTIAL PRIMARY CANDIDATES THROUGH 6/30/85



[1] *Includes total receipts minus transfers between each candidate's authorized committees.*

[2] *The Cranston for President Committee has not identified all the sources of funds received during 1984. Consequently, some of the receipt categories may eventually be larger (e.g., individual contributors).*

CHART VI
1984 PRESIDENTIAL GENERAL ELECTION

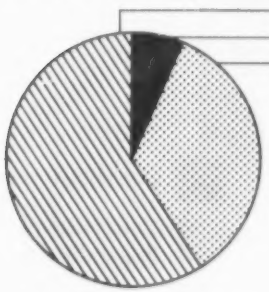


[1] *See 2 U.S.C. 441a(d).*
[2] *Fund supports legal and accounting services related to compliance with the election law.*

PARTY COMMITTEES

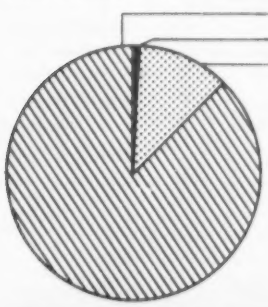
CHART VII
RECEIPTS[1] OF MAJOR PARTIES, 1983-84

DEMOCRATIC RECEIPTS BY SOURCE



Individual Contributions (59.2%)	$ 58.3 million
PAC Contributions (6.6%)	6.5 million
Other Receipts[2] (34.2%)	33.7 million
TOTAL	$ 98.5 million

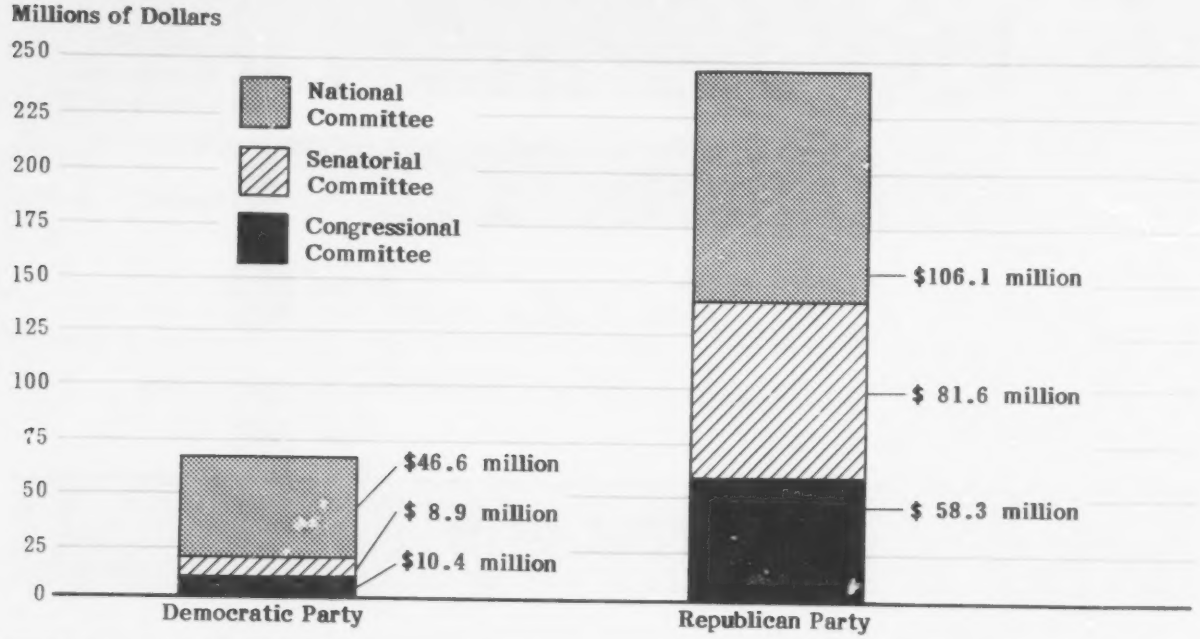
REPUBLICAN RECEIPTS BY SOURCE



Individual Contributions (87.9%)	$262.0 million
PAC Contributions (0.6%)	1.7 million
Other Receipts[2] (11.5%)	34.2 million
TOTAL	$297.9 million

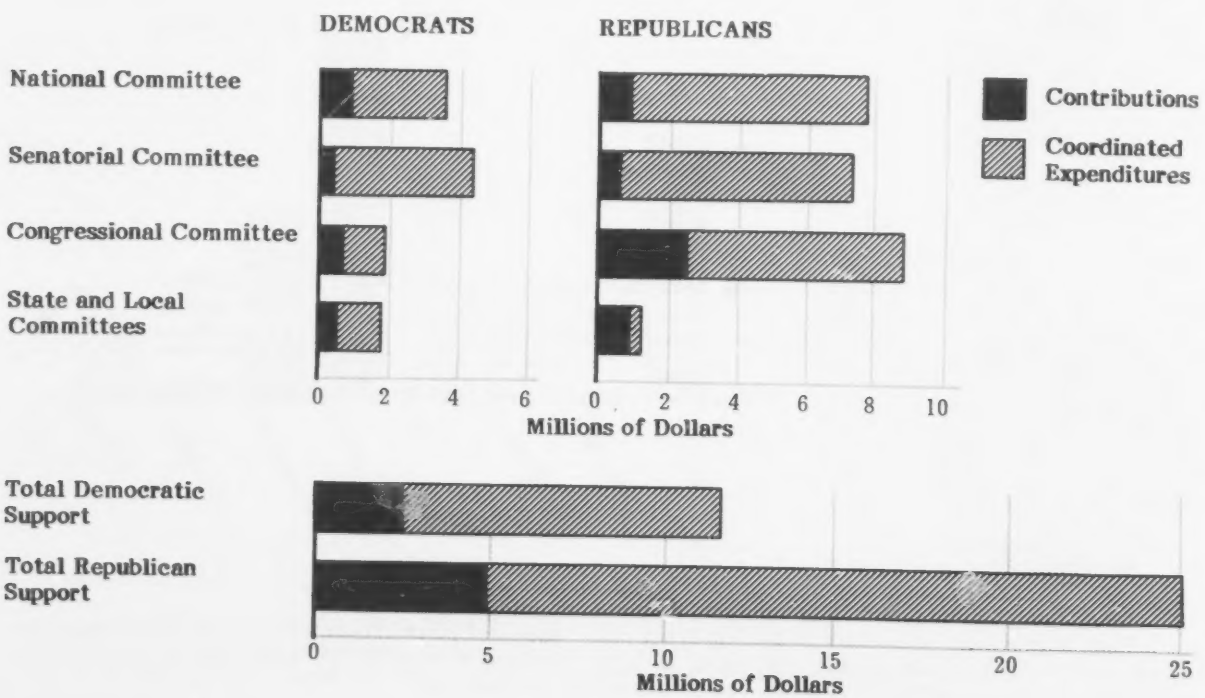
[1] *Includes total receipts minus transfers among each party's committees.*
[2] *Other receipts include contributions from other political committees and unregistered organizations (e.g., local party organizations); loans or loan repayments received by party committees; offsets to expenditures; dividends, interest and other miscellaneous income.*

CHART VIII
RECEIPTS[1] OF NATIONAL PARTY COMMITTEES, 1983-84



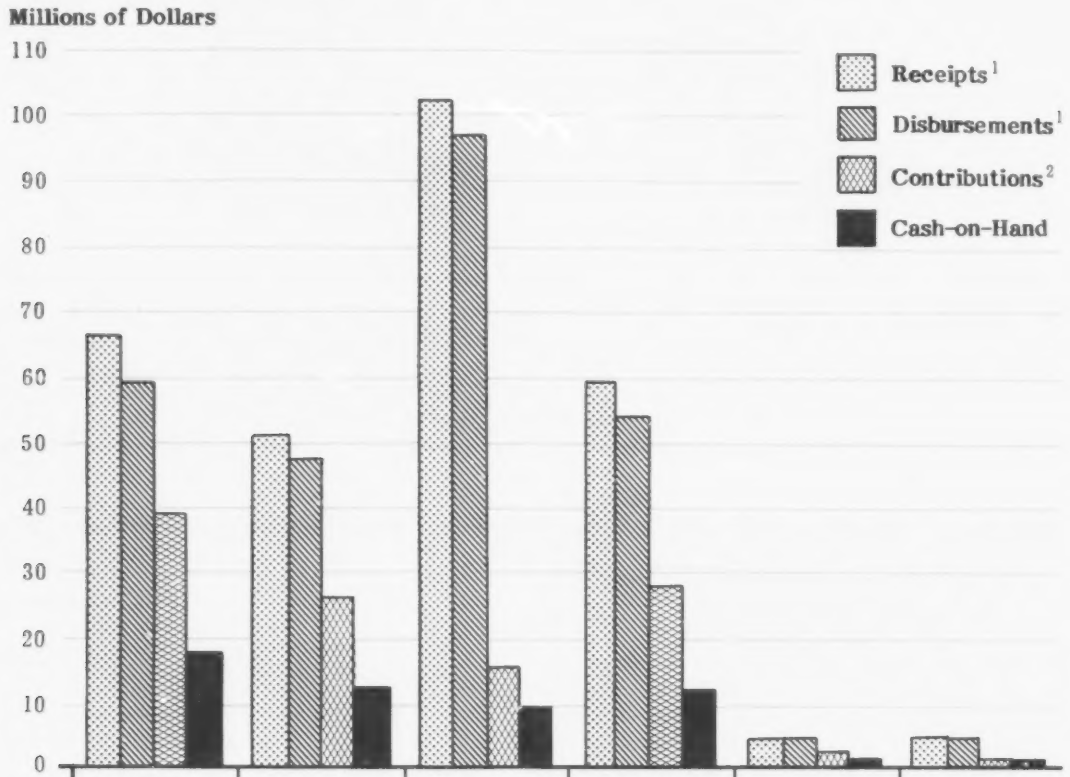
[1] *Includes total receipts minus transfers between each party's respective committees.*

CHART IX
MAJOR PARTY SUPPORT OF FEDERAL CANDIDATES, 1983-84



POLITICAL ACTION COMMITTEES

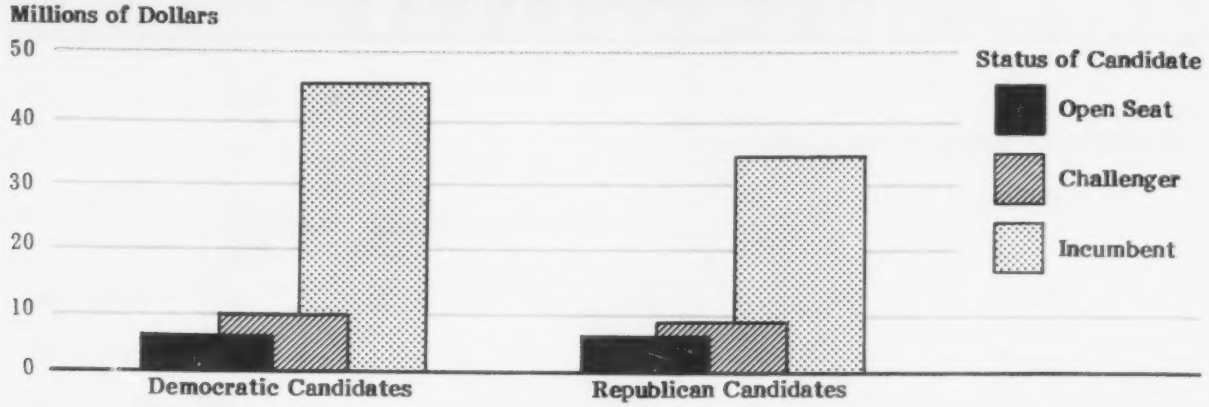
CHART X
FINANCIAL ACTIVITY OF PACs, 1983-84



	Corporations	Labor Organizations	Non-Connected Organizations	Trade/Membership/ Health Organizations	Cooperatives	Corporations w/o Stock
Total Number of Committees[3]	1,809	438	1,146	757	58	139
Number of Committees Making Contributions	1,521	289	517	575	50	94

[1] *Receipts and disbursements do not include funds transferred between affiliated committees.*
[2] *Includes contributions to committees of: 1984 House and Senate candidates; and all federal candidates (for House, Senate and Presidency) campaigning in future elections or retiring debts of former campaigns.*
[3] *Includes total number of PACs active in federal elections at any time between January 1, 1983, and December 31, 1984. Since some committees have terminated, this figure does not represent all committees active as of December 31, 1984.*

CHART XI
PAC CONTRIBUTIONS TO HOUSE AND SENATE CANDIDATES, 1983-84



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